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CRP No.552 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.552 of 2024

M.R.Venkatesan

... Petitioner

Vs.

1.Srilasri Bala Dhandayutha
Mouna Guru Swamigal Trust,
rep. By its President P.Balaraman

2.M.Ravi

3.N.Lingeswaran

4.Manickavel

5.Balasankaraswamy

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair order and decree passed in IA No.1 of 2023 in OS No.50 of 2017 dated 31.10.2023 by the learned Additional Subordinate Judge, Ponneri.

For Petitioner : Mr.T.S.Rajamohan

For Respondent No.1 : Mr.R.Krishnaswamy

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ORDER

The civil revision petition is file to set aside the fair order and decree passed in IA No.1 of 2023 in OS No.50 of 2017 dated 31.10.2023 by the learned Additional Subordinate Judge, Ponneri.

2. The revision petitioner is the fourth defendant, first respondent is the plaintiff, and respondents 2 to 5 are defendants 1 to 3 and 5 in OS No.50 of 2017. Subsequently, the trustee who filed the suit was changed and the new trustees resolved to withdraw the suit. Hence the petitioner herein filed an application in IA No.1 of 2023 to dismiss the suit of having become infructuous. The trial court, by order dated 31.10.2023, dismissed the said application. Challenging the said order, the petitioner has filed the present civil revision petition.

3. Learned counsel for the petitioner submits that the trustee, who filed the suit now changed and subsequent trustees resolve to withdrawn the



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suit and subsequently deed was also executed. In these circumstances, the petitioner has filed this application to dismiss the suit as infructuous. The trial court by passing the impugned order, dismissed the application, on the ground that the petitioner has not made out any case for dismissing the suit as infructuous. Further, the ground raised by the petitioner in the affidavit is not an acceptable ground for dismissing the suit as infructuous. He further submits that even though the supplementary deed by way of any specific resolution was not produced, based upon the resolution, suit cannot be dismissed as infructuous. Hence, seeking to allow the Revision.

4. Learned counsel appearing for the respondents contended that the suit has not become infructuous and there is no resolution to withdraw the suit as stated by the petitioner. Therefore, seeking to dismiss the revision.

5. Heard the learned counsel for the parties and perused the materials available on record.



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6. On perusal of records, the fact reveals that the petitioner is the fourth defendant in a suit filed by the plaintiff in OS No. 50 of 2017 on the file of the learned Additional Subordinate Judge, Ponneri for the relief of permanent injunction against the petitioner and other defendants, in which the petitioner/fourth defendant filed IA No.1 of 2023 seeking to dismiss the suit as infructuous on the ground that changing trustees passed a resolution to withdraw the suit, which is denied by the plaintiff. In such circumstances, the trial court not accepting the contention of the petitioner dismissed the instant application. I find no reason to interfere in the impugned order passed by the trial court. There is no ground to dismiss the suit as infructuous as stated by the petitioner. There is no merit in the revision. Hence, the Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, CMP No.2748 of 2024 is closed.

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Index: Yes/No
Internet: Yes/No
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To
The Additional Subordinate Judge, Ponneri



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V.SIVAGNANAM, J.

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