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C.R.P.No.1.....

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.1216 of 2024

1. Vijaya Kumar
S/o Late C.Raji
2. Mrs.P.Malathy
W/o Prathaban

.. Petitioners

-VS-

1. Mr.N.Senthilvelu
2. Mr.K.Jayakumar
3. Mr.L.Suresh
4. Mr.K.R.Kannan
5. Mr.T.A.Swaminathan
6. Mr.S.Arumugam
7. Mrs.M.Geetha
8. Mrs.S.Prema
9. Mrs.J.Anandhi
- 10.Mr.J.Gopi
- 11.Mr.M.S.Suresh
- 12.Mr.N.Balaji
- 13.Mr.M.Babu
- 14.Mr.P.Ilayaraja
- 15.Mr.E.Suresh Babu
- 16.Mr.T.M.Siva Sankaran
- 17.Mr.T.Jayakumar
- 18.Mr.P.Francis Balasingh
- 19.Mr.S.Ravindranath
- 20.Mr.S.Prakash



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21.Shri Khongurunathar Meignana Sabai Trust
rep by its Secretary V.R.Raghuraman
S/o late V.S.Ragavan
No.1, Ashrammam Salai
Thozhur Village & Post
Thiruvallur Taluk and District 602 025

22.P.Rajagopal

23.V.R.Raghuraman

24.A.Kamala

25.V.Venkatramana

26.Ashok Kumar

S/o K.Narayanan

.. Respondents

Memorandum of Grounds of Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 03.11.2023 passed in I.A.No.2 of 2022 in I.A.No.1 of 2022 in O.S.(SR)No.748 of 2022 by the Principal District Judge, Tiruvallur.

For Petitioners

::

Mr.K.J.Parthasarathy

For Respondents

::

Mr.G.T.Subramanian for R1 to R20

Mr.A.Govardhan Rao for R21 to R26

ORDER

This civil revision petition arises against the order passed by the learned Principal District Judge at Tiruvallur in I.A.No.2 of 2022 in I.A.No.1 of 2022 in O.S.SR.No.748 of 2022. A suit filed for the following reliefs:-

(i) To declare the resolution dated 26.09.2021 as null and void.

(ii) To remove Mr.V.R.Raghuraman/the third defendant from the Trusteeship of Shri



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Khongurunathar Meignana Sabai Trust, Tiruvallur.

(iii) To appoint the second plaintiff as life time permanent trustee as per Trust deed dated 23.06.1994 in Doc.No.135/1994.

(iv) For declaration of the deed of amendment of the Trust dated 12.10.2021 in Doc.No.218/BKIV/2021 on the file of SRO, Tiruvallur as null and void.

(v) For permanent injunction restraining the defendant and his men, agents, servants, relatives or anybody claiming under them from interfering in any manner dealing with the functioning and management of Shri Khongurunathar Meignana Sabai Trust, Tiruvallur and its properties.”

2. The cause of action for the suit is that a Trust by name Shri Khongurunathar Meignana Sabai Trust was formed in the year 1994. The first plaintiff-Vijayakumar was designated as “Moopanar Swamigal” and the third and fourth defendants and one Sevugan were designated as permanent trustees. It was pleaded that the third defendant had started appointing his relatives to the office of the Trust and had taken control of the Trust. By a resolution dated 26.09.2021, the first plaintiff was retired from the post of permanent trustee on attaining the age of 60. Challenging the resolution, for removal of the third defendant and for appointment of the second plaintiff as the permanent trustee, the present suit claiming to be one under Section 92 of CPC, came to be filed. In this suit, certain devotees sought to implead themselves by filing an application in I.A.No.2 of 2022. Prior to this application, treating this as a Scheme suit under Section



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92 of the Code, an application in I.A.No.1 of 2022 to grant leave was filed and publication was effected. Immediately on coming to know the same, respondents 1 to 20 filed an application under Order I, Rule 10. This application came to be allowed. Hence the revision.

3. Mr.K.J.Parthasarathy, learned counsel for the civil revision petitioners would point out that for impleading of party, proper provision is Order I, Rule 10 and not Order I, Rule 8. He would plead that they could be treated as necessary parties, as they are disciples of Shri Khongurunathar Meignana Sabai, but cannot be treated as persons interested in the application filed under Section 92.

4. This is stoutly opposed by Mr.G.T.Subramanian, learned counsel for the proposed parties/respondents 1 to 20 and Mr.A.Govardhan Rao, who appears for the 21st to 26th respondents in this revision.

5. I have carefully considered the submissions of both sides.

6. It is not in dispute that the suit relates to a trust under the name and style of Shri Khongurunathar Meignana Sabai Trust. The proposed parties claim to be devotees



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and this factum is not opposed by Mr.Parthasarathy's clients. When such is the situation, any person who is interested in litigation which touches upon the interest of the proposed parties, can certainly be impleaded. Insofar as the reliefs sought for are concerned, they are not necessary parties. But if the reliefs are granted, they will be affected. Hence they will be proper parties.

7. Having said that, going through the plaint, it is clear that the relief sought for is personal to the plaintiffs. They would want the resolution dated 26.09.2021 directing 1st plaintiff's retirement to be declared as null and void and would also want the relief of appointing the second plaintiff as a life trustee. Further, they will seek for a declaration that the amendment carried on the basis of the resolution dated 26.09.2021 should also be declared as null and void. These reliefs are personal in nature to the plaintiffs. Therefore a suit under Section 92 cannot be entertained. Section 92 suit is a special mechanism, which deals with public charitable trust. It is settled that unless and until the relief that is sought for is covered under Section 92(a) to 92(h), it cannot be treated as a Scheme suit. Further more, a Scheme Court cannot grant personal reliefs to a party. Hence entertaining of the suit itself as a Scheme suit requires to be interfered with.

8. When this was pointed out to the contesting parties, Mr.K.J.Parthasarathy



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would submit that a direction may be issued to withdraw I.A.No.1 of 2022 with a further direction to number the suit as a regular suit under Order VII, Rule 1 of Civil Procedure Code. I feel that is the proper procedure that has to be adopted when a Court comes to a conclusion that the suit is not covered under Section 92 of the Code. Hence, while confirming the order of the learned Principal District Judge, Tiruvallur dated 03.11.2023 impleading the proposed parties, there shall be a direction to the learned District Judge to permit the plaintiffs to withdraw the leave application, as the relief sought for in the suit is not covered under Section 92 and there shall be a further direction to the Court to number the suit as a regular suit and proceed in accordance with law. It is made clear that in such suit, the proposed parties shall be impleaded as defendants. The civil revision petition stands disposed of accordingly. Consequently, C.M.P.No.6355 of 2024 is closed. No costs.

Index: yes/no
Neutral citation : yes/no

03.09.2024

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To

1. The Principal District Judge
Tiruvallur

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V.LAKSHMINARAYANAN, J.

SS

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