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C.R.P.(PD).No.864 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.864 of 2019

and

C.M.P.No.5631 of 2019

1.Sri. Rukumani Samedha
Sri Panduranganadha
Swamy Devasthanam
Represented by its President
K.R. Venkatesh, aged about 44 years

2.K.R.Venkatesh

3.T.K.Madhavan

4.Es.Kanna

5.A.H.Soundar

6.P.V.Chandrapal

7.V.H.Jagadeesh

8.T.S.Krishnamurthi

9.M.R.Nagarajan



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10.K.T.Srinivasan

11.N.Rangachari

... Petitioners

VS

1.P.K.Gopinath

2.T.N.Chandrasekaran

3.K.R.Ravindaran

4.N.S.Padmanabhan

5.K.Vinod kumaar

6.K.E.Ganesh

7.K.R.Hariharan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Order and Decreetal Order in I.A.No.149 of 2018 in Unnumbered O.S.No. of 2018, on the file of the Principal Subordinate Judge, Salem dated 06.06.2018.

For Petitioners : Mr.Sunny Sheen

For R1 to R5 : Mr.A.K.Kumarasamy
Senior Advocate
for M/s.S.Kaithamalai Kumaran

For R6 and R7 : No Appearance



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below allowing the petition seeking leave to file suit filed under Section 92 of the Civil Procedure Code.

2. The respondents 1 to 5 herein filed a suit seeking framing of scheme for proper administration of Sri Rukmani Samedha Panduranganatha Swamy Devasthanam, Shevapet, Salem-2.

3. A reading of impugned order passed by the Court below would indicate that the Court below has not given any reasoning for allowing the application seeking leave. The impugned order reads as follows:-

“Counter of R1 to R11 not filed. R1 to R11 called absent set exparte. Counter of R12 and R13 filed. Wherein R12 and R13 have requested to allow the petition Heard both sides. Petition allowed.”



WEB COPY 4. Therefore, after setting the petitioners/respondents 1 to 11 therein *exparte* and recording the counter filed by the respondents 12 and 13 therein, the Court below allowed the petition on the ground that the respondents 12 and 13 therein sought for allowing of the petition.

5. While considering the petition seeking leave under Section 92 of the Civil Procedure Code, the Court below is expected to consider the interest of 1st petitioner-Trust. It should also see whether the suit is filed in the interest of trust or merely filed as a camouflage for advancing any private interest. The impugned order has been passed even without giving any reason for conclusion reached by the Court below. Therefore, the impugned order, being a non-speaking order, is liable to be set aside.

6. Accordingly, the Civil Revision Petition is allowed and the matter is remanded back to the file of Trial Court with a direction to dispose of the same on merits, after giving opportunity to all the parties concerned. The petitioners herein are directed to file their counter to the leave application on



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or before 09.02.2024. The Court below is directed to dispose of leave application within a period of four weeks thereafter. No Costs. Consequently, the connected civil miscellaneous petition is closed.

19.01.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

Note: Issue Order Copy on 29.01.2024.

To

The Principal Subordinate Judge,
Salem.



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S.SOUNTHAR, J.

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