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C.R.P.No.1428 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1428 of 2023
and C.M.P.Nos.9619 & 9620 of 2023

1.P.N.Shankar
2.Vijayalakshmi

... Petitioners

-Vs-

1.Sri Vidya Mandir Higher Educational Trust
Uthangarai, Rep.by its Secretary R.P.Rajee
Office at Ramamurthy Nagar, Katteri
Uthangarai.

2.V.Chandrasekar

3.R.P.Rajee, Secretary
Office at Ramamurthy Nagar
Katteri, Uthangarai.

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the docket order dated 13.02.2023 made in I.A.No.1 of 2022 in O.S.No... unnumbered of 2022 on the file of the learned Principal District Judge Court, Krishnagiri.

For Petitioners : Mr.V.Karthikeyan
For Respondents : Served, no appearance

ORDER

This civil revision petition arises against the order dated 13.02.2023 made in I.A.No.1 of 2022 in unnumbered O.S. of 2022 on the file of the Principal District



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Judge, Krishnagiri.

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2. The unnumbered suit has been presented seeking for framing of the Scheme and to remove 60 illegally appointed trustees by the second defendant in the year 2018. It further seeks for a direction to transfer the land records from the individual names of the Trustees to the name of the Trust. Pending numbering of the suit, the plaintiff took out an application seeking for appointment of administrator. In the said application, notice was served on the named defendants. However, the Principal District Judge felt that, being a public trust with 60 persons, who are said to have been illegally appointed and who will be affected if any order is passed in the application, ordered notice by way of newspaper publication about the filing of the suit. The learned Judge gave the discretion to the plaintiff to make a publication in any of the following papers - Dinamalar, Dinathanthi, Dinakaran, Dinamani, Hindu Tamil etc.,

3. Challenging the order issuing notice by publication, a civil revision petition came to be filed before this Court in C.R.P.No.3218 of 2022. The said revision was dismissed on 12.10.2022, giving liberty to the petitioner to file an application to recall the order passed by the Court ordering paper publication. In exercise of the liberty so granted, the plaintiff filed an application in I.A.No.1 of 2023 seeking the Court to recall the order. The learned trial Judge dismissed the application, against which the present revision.



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4. Mr.V.Karthikeyan would vehemently submit that the two defendants are already on record by way of a counsel and hence the question of making a publication would not arise. He would state the order passed by the learned Judge is otiose and it ought to have been recalled, since the concerned persons have already appeared before the Court.

5. I am not in agreement with Mr.V.Karthikeyan for the following reason. This is a Scheme Suit filed as against the Public Trust, which is the first defendant apart from the second defendant who is supposed to be the Secretary. The suit also seeks to remove 60 persons, who are said to have been appointed by the second defendant in the year 2018. None of those 60 persons have been impleaded as parties to the suit. Before any order is passed in the suit, any person interested in the Trust is entitled to appear before the Court and be heard in the matter.

6. The apprehension of Mr.V.Karthikeyan that repeated applications will be filed to implead parties and thereby the proceedings will be delayed, can be addressed by the trial Court itself. It can always fix an outer limit within which the applications for impleading ought to be filed before the application for administrator and application for grant of leave is heard. This practice has been followed by the



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Original Side of this Court and could be adopted by the learned trial Judge also.

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V. LAKSHMINARAYANAN, J.

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7. On account of the fact that the matter will take time, I cannot permit the plaintiff to argue on a matter, which, if it goes in his favour, will affect the rights of parties who would not have been heard at all. Therefore, I do not find any error in the order of the learned District Judge, Krishnagiri ordering publication. The Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

23.07.2024

Index : Yes/No

Neutral Citation : Yes/No

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Note : Issue order copy on 25.07.2024

To

The District Judge
Krishnagiri.

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