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C.R.P.(PD).No.1889 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1889 of 2020

and

C.M.P.No.11362 of 2020

1.Sri Sakthi Educational Trust,
Pudanchandai
Namakkal Taluk
By Secretary

2.V.Chitra

3.M.S.Padmavathy

4.B.Palanisamy

5.C.Raju

6.Amaravathy

7.S.Raja

8.C.Priya

9.D.Mani

10.R.Surendar



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11.K.Duraisamy

12.V.Somu

13.Sakthivel

14.N.Nandhini

... Petitioners

VS

1.Manickam

2.Ashok

3.R.Balakrishnan

4.Arul Ram

5.P.Vimala

6.K.Manickam

7.V.Arumugam

8.Rajkumar

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decretal order of the learned Sessions (Fast Track Mahila) Judge, Namakkal in I.A.No.2 of 2019 in O.S.No.49 of 2014 dated 13.01.2020.

For Petitioners : Mr.M.Sridhar



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for M/s.S.Muthukrishnan

For R2 : Mr.C.Gunasekaran
for M/s.I.Abrar Md Abdullah

R1 and R3 to R6 : No Appearance

R7 : Unclaimed

R8 : Incorrect Address
not ready in notice

ORDER

Aggrieved by the order allowing the petition for amendment of the plaint, the petitioners/defendants 1, 3 to 7, 11, 12, 15 to 20 have come by way of this civil revision petition.

2. The respondents 1 and 2 herein filed a suit seeking removal of defendants 6, 10 and 18 from the trusteeship of the 1st defendant-Trust and also for decree permitting the 2nd respondent/2nd plaintiff to function as President of the Trust till conduct of proper election to the 1st defendant-Trust.

3. The 10th defendant therein filed a written statement raising a plea that as per the request made by the majority of the Trust Board Members, a



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meeting of the Trust Board was conducted on 14.04.2013 and new Office Bearers were elected and the 10th defendant was elected as President of the 1st defendant-Trust.

4. Thereafter, the respondents 1 and 2/plaintiffs filed the present amendment application seeking amendment of the plaint to include a prayer for cancellation of the Resolution dated 14.04.2013. The respondents 1 and 2 also sought for removal of the valuation column of the plaint by substituting relevant Section as 28 instead of 47 of the Tamil Nadu Court Fees Act. The Court fee payable was also sought to be amended as Rs.1,000/- instead of Rs.200/-. The said amendment application was allowed by the Court below on the ground that the trial in the suit has not been commenced and therefore, the respondents 1 and 2/plaintiffs shall be given an opportunity to claim all reliefs with regard to dispute between the parties. Aggrieved by the same, the petitioners are before this Court.

5. The learned counsel appearing for the petitioners submitted that resolution sought to be cancelled by way of amendment was referred to in the



written statement of the 10th defendant, which was filed in the Court as early as 16.02.2015. However, the present application for amendment has been filed after considerable delay by the respondents 1 and 2. In view of the long delay in seeking amendment, the petition shall be rejected.

6. Merely because, there is delay on the part of the party in seeking amendment, the amendment cannot be refused if it is necessary to decide the actual controversy between the parties. In the case on hand, there is a dispute with regard to the management of the Trust. The petitioners are claiming that as per the Resolution dated 14.04.2013, new Office Bearers were elected to the 1st defendant-Trust. Now, by way of amendment, the respondents 1 and 2/plaintiffs seeks cancellation of the said resolution.

7. Merely because, there is delay on the part of the party in seeking amendment, the Court need not reject it, when the relief sought to be introduced by way of amendment is touching the real dispute between the parties. It is also settled law that Court should be liberal in allowing pre-trial amendment. In the case on hand, the trial is not yet commenced. When the



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respondents 1 and 2/plaintiff are entitled to file a separate suit seeking relief sought to be introduced by amendment, allowing the amendment application will certainly avoid multiplicity of proceedings. Therefore, I do not find any error in the order passed by the Court below and accordingly, the Civil Revision Petition is dismissed. No Costs. Consequently, the connected civil miscellaneous petition is closed.

11.01.2024

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



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To

WEB COPY The Sessions (Fast Track Mahila) Judge,
Namakkal.



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S.SOUNTHAR, J.

dm

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