



AS.No.701 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.12.2023

PRONOUNCED ON : 11.01.2024

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

AS.No.701 of 2023 and
C.M.P.Nos.24588,24589,24590 and 28811 of 2023

1. M/s.Ponni Charitable Trust, Samalapuram,
Rep. by its President R.Ramamoorthy,
Office at No.858, Samalapuram Post,
Tiruppur District.641 668.

2. M/s.Literacy Mission Matriculations Higher Secondary School,
Samalapuram,
Represented by its Principal,
Karanampatti, Somanur Road,
Samalapuram, Tiruppur-641 663.

3. G.S.Ramasamy

4. R.Ramamoorthy

5. M.V.Thangannan

6. Sathyaraj Ramamoorthy

... Appellants

Vs.

M.Subramaniam (Died)

1. G.Rathinasabapathy

1/35



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2. G.Manoharan
3. M.Ramathal
4. M.Ganesan
5. M.Srinivasan
6. E.Thangaraj
7. T.Chinnasamy
8. A.Velusamy
9. S.A.Senthilkumar
10. P.Ganesmoorthy
11. S.Gunasekar

...Respondents

PRAYER: Appeal Suit is filed under Section 96 of CPC against the judgment and decree dated 18.10.2023 passed in O.S.No.300 of 2019 on the file of the II Additional District & Sessions Court, Tiruppur.

For Appellants : Mr.V.P.Sengottuvel,
Senior Counsel for Mr.D.Gopal

For Respondents

1 to 6 : Mr.AR.L.Sundaresan
Senior Counsel for
Mr.R.V.R.Deenadayalan

For Respondents

R9 to R11 : Mr.P.V.Giridhar
Senior Counsel for
Mr.M.Silambarasan

For Respondent 7 : Mr.C.Iyyaparaj

For Respondent 8 : Mr.S.Sivakumar



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JUDGMENT

This appeal suit is filed against the judgment and decree dated 18.10.2023 passed in O.S.No.300 of 2019 on the file of the II Additional District & Sessions Court, Tiruppur.

2. For the sake of convenience, the parties are referred to as per their ranking in the trial Court.

3. The plaintiffs are the appellants and the respondents are defendants. The plaintiffs file the suit for permanent injunction. Both the counsels consented to take the appeal suit for final hearing due to urgency. Hence, this court has taken this appeal suit for final hearing and passed this order.

4. The case of the plaintiffs is that the 1st plaintiff is a Charitable Trust having its office at Samalapuram which came into existence under a Deed of Trust dated 30.01.1995. As per the trust deed, there are 11 Trustees who are also Founder Trustees and also Permanent Trustees.



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The 1st plaintiff Trust started a School namely Literacy Mission Matriculation Higher Secondary School at Samalapuram in 1995. It was constructed in the land belonged to 3rd plaintiff. The said land was purchased by the 1st plaintiff Trust by the registered sale deed dated 28.05.2003. The 1st plaintiff also started another school in the name of Literacy Mission International School at Sulur. In both the schools, more than 3,000 students are studying.

4.1. The further case of the plaintiffs is that on 27.11.1995, one of the Founder permanent Trustee namely Arumugam died and in his place, his eldest son i.e., S.A.Senthil Kumar/5th plaintiff was appointed as one of the permanent trustee as per the Trust Deed. The defendants 1 to 3 are claiming that the 8th defendant had resigned from the 1st plaintiff trust in the year 1996 and his resignation was accepted on 23.06.1996 and the 7th plaintiff opted to resign and he was relieved on 13.04.1997. The resignation letters were obtained under coercion and threat by the Defendants 1 and 2 with the help of Police Authorities. The said claims are false and the concerned resolutions are also illegal. As per the trust



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deed, in clause 11(b), the 7th plaintiff and 8th defendant are permanent trustees. Even after demitted from the office, they are entitled for reelection. Therefore, they are continued as permanent trustees. The resolutions of the Board of Trustees dated 23.06.1996 and 13.04.1997, could not have been acted upon and the same is contrary to the Trust Deed. Even assuming that their resignation was accepted and their seats cannot be kept vacant indefinitely and it should be filled up by appointing their legal heirs as per clause 3(d) of Deed of Trust. Therefore, they are continued to be Trustees of the 1st plaintiff's trust.

4.2. The further case of the plaintiffs is that however, the claim of the defendants 1 to 3 that the 3rd plaintiff resigned from his Trusteeship on 24.09.2004 by way of resignation and the resolution was also passed to that effect. The 3rd plaintiff never resigned from his Trusteeship and the resolution is also illegal. One of the Founder Trustees by name Muthusamy expired on 05.07.2017 leaving behind his wife and three sons, out of which, the defendants 5 and 6 are two sons. The defendants 1 to 3 also claim that in the place of Muthusamy, the 4th defendant was



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inducted as one of the Trustees in the Trust meeting held on 19.09.2017, in which the 4th defendant was inducted as one of the trustee. The said meeting was conducted without any quorum. Therefore, the 4th defendant cannot claim to be a trustee. Further, the claim of the defendants 1 to 3 that the 4th plaintiff was removed from his Trusteeship on 02.12.2017 by way of a resolution, which is also false and invalid. As per the resolution dated 24.09.2004, the 3rd plaintiff was also relieved. Therefore, it is illegal and void ab initio. The 4th plaintiff was not given any opportunity before expulsion and it is against the principles of natural justice. A proper and valid meeting of the Trustees was held on 27.12.2018 and proper meeting notices were given to the members of the said trust in advance. In the said meeting, office bearers were elected and allotted portfolios. The same is extracted hereunder.

<i>Sl.No.</i>	<i>Name</i>	<i>Designation</i>	<i>Ranking in the suit</i>
1.	R.Ramamoorthy	President	3rd plaintiff
2.	P.Senniappan	Vice-President	5th plaintiff
3.	A.Velusamy	Vice-President	9th defendant
4.	S.A.Senthilkumar	Secretary	4th plaintiff
5.	T.Chinnasamy	Joint Secretary	8th defendant
6.	G.S.Ramasamy	Treasurer	2nd plaintiff



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<i>Sl.No.</i>	<i>Name</i>	<i>Designation</i>	<i>Ranking in the suit</i>
7.	M.V.Thangannan	Joint Treasurer	6th plaintiff
8.	M.Subramaniam	Trustee	1st defendant
9.	G.Rathinasabapathy	Trustee	2nd defendant
10.	G.Manoharan	Trustee	3rd defendant

4.3. The further case of the plaintiffs is that another meeting was held on 15.02.2019, in which the plaintiffs 7 to 9 were elected as Trustees. Therefore, there are totally 13 trustees in the Board of Trustees. The School Committee was also formed as per the Mandatory Provisions of The Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. In the said committee, plaintiffs 4 and 5 were appointed as members and the Principal and others were appointed as members of the School Committee. The said School Committee was headed by 3rd plaintiff and he is looking after the management and functioning of the 2nd plaintiff school. As per the minutes passed in the meeting dated 27.12.2018, new office bearers had taken charge of the 1st plaintiff Trust. However, the defendant 1 to 3 raised objections and questioned the validity of the meeting held on 27.12.2018. In fact, subsequent to the said meeting, it was resolved that the new Board of Trustees would start functioning from



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16.01.2019 only. Even then, the defendants 1 to 3 did not take any legal action to prevent the functioning of the Board. As per the resolution, the 1st defendant claiming to be the President of the 1st plaintiff Trust filed a suit in O.S.No.52 of 2019 as against the plaintiffs 3,4 and 7 and the 8th defendant for permanent injunction. The plaintiffs filed application for rejection of plaint in I.A.No.97 of 2019 in O.S.No.52 of 2019. However, the trial Court ordered to try the said application along with the suit and dismissed the application. Aggrieved by the same, they also filed civil revision petition in C.R.P.No.1905 of 2019 and the same is reserved for orders. Subsequent to the orders passed in the said application for rejection of plaint, the defendants 1 to 7 created all sorts of troubles thereby causing terror, tension in the suit properties. Therefore, the Principal of the 2nd plaintiff school filed a writ petition before this court in W.P.No.1466 of 2019 for seeking police protection. This Court vide order dated 23.05.2019 granted police protection and gave suitable direction to the police authorities. Even then, the defendants did not stop their illegal activities. Therefore, the plaintiffs are not able to run the school. The teachers are scared to come to school and conduct the



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classes freely. The defendants 1 to 7 are also bringing rowdy elements and creating unnecessary problems and interfered with day to day affairs and functioning of the Trust and School Committee. They are also collecting excess fees from the parents of the students. Hence, the suit.

5. Resisting the same, the defendants filed a written statement stating that there is no place for permanent Trustee in the Trust Deed. In Trust Deed, Page No.14, Para d, there is a Clause for Retirement of Trustee from the Trust which reads as "The Board of Trustees have power to accept the retirement of any Trustees from the Trust and to appoint any one of legal heirs of that Trustee, as a Trust Member of Board of Trust, in acceptance with the outgoing Trustee". Therefore, there is no permanent Trustees in the Trust. No property was donated by the 3rd plaintiff to construct the 2nd plaintiff school. The 1st plaintiff trust had purchased total extent of 3 acres from the 3rd plaintiff and started school by name Literacy Mission International School, Sulur. After the demise of Trustee Arumugam, appointment of his son S.A.Senthil Kumar as a trustee was admitted by the defendants. On 23.06.1996, the 8th defendant resigned



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and resolution was passed by the trust. Accordingly, the resignation of the 8th defendant was duly accepted and signed by the plaintiffs 3,4,5,6,7 and the defendants 1,2 and 8 along with deceased trustee Muthusamy. It was resolved at the time of 3rd plaintiff was the President of trust. He only initiated to pass the Resolution and all other Trustees signed in that resolution. In fact, on the complaint lodged by the 4th plaintiff on 16.05.2017 before the District Crime Branch, Tiruppur against the Trust and Trust Members which included the plaintiffs 5 and 6, enquiry was conducted, in which the 8th defendant appeared in person and explained that he was relieved from the Trust on 23.06.1996 itself. Therefore, no resignation was obtained with the help of police authorities.

5.1. It is further stated that in fact, the resolution was passed as early as on 13.04.1997 by the 6th plaintiff. The 6th Plaintiff was the President of the Trust and he only initiated to pass the resolution and all other Trustees signed in the Resolution dated 13.04.1997. The appointment of legal heirs arises only at the time of accepting the retirement of out going trustees. There is no question about the legal



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heirs appointment for more than 24 years till 2018. At the time of relieving, their Legal Heirs were appointed as trustees. Now, the relieved Trustees would show interest to become Trustees again. After resignation of 3rd plaintiff, his son 4th plaintiff was in the Post of Correspondent for the school. But, the 4th plaintiff never raised any objections with regard to the Resignation Resolution of 3rd plaintiff. When the resolution was passed 6th plaintiff was the President of Trust. The same was supported by the 3rd plaintiff. As per one of the clause of the Trust Deed, if any Trustee expires, then the Legal heirs of the Trustee can be appointed as Trustee with the permission of the other Legal heirs.

5.2. It is further stated that the reply notice dated 12.03.2019, the 5th and 6th plaintiffs accepted one, Ramathal as a Trustee. When the plaintiffs sought for injunction as against co-trustees, then section 92 of CPC must be filed along with plaint. In fact, even according to the plaintiffs, the defendants 1,2,3 and the 9th defendant are acting as Trustees. However, they failed to comply the provision under Section 92 of CPC. Further stated that on 27.12.2018 the alleged trust meeting was



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conducted by the 4th plaintiff, in which the 9th defendant did not participate and not signed. Therefore, in order to bring the quorum of the Trust meeting, the plaintiffs created forged documents as these defendants had been selected as trustees.

5.3. It is further stated that this court ordered for police protection only to safeguard the school students, that too on the admission time, it was ordered. In fact, the plaintiffs 3 to 9 are not allowing to run the school peacefully and to achieve the goal of the trust. They came inside the school along with rowdy elements on 04.05.2019. Therefore, the 2nd defendant lodged a complaint. However, there was no action as against the plaintiffs, since the police persons colluded with the plaintiffs. The defendants 1 to 4 are the Trustees and also the members of school committee. The Trust was started in the year 1995 and it is functioning till date. During that period, there are only three trustees were running the trust. The 3rd plaintiff served as President for the period 1995-1997. The 6th plaintiff served as President for the period 1997 to 2014 and the 1st defendant is serving as President from 2014 to till date. Initially, the



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trustees don't have the practice of changing the President for every three years. Therefore, the presidential period ends in the year 2017, then all the major resolutions were taken up after the 3rd year i.e., 2018 only. In order to start the CBSC school, a resolution was passed on 12.03.2018, thereby resolved to open new account for the purchase of 10 buses to the school students availing loan from bank and to avail lease land for the school and to appoint the 5th plaintiff as Correspondent for the school. Now, the plaintiffs are enjoying the resolution which was passed on the 4th presidential year of the 1st defendant as president. The defendants 1 to 4 are the Trustees and School Committee members and the defendants 5 and 6 are sons of the 4th defendant who is a Trustee and also the office bearers of the school. The 7th defendant is a parent of school studying child and also a member of school committee. So there is no third parties as defendants and each and every defendant is having their own role over the Trust as well as the school.

6. On completion of pleadings, the trial court framed the following issues:



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i) Whether the Plaintiffs are entitled for Reliefs of Permanent Injunction against the Defendants?

ii) Whether the Plaintiffs are entitled for Reliefs of Mandatory Injunction against the Defendants 2, 5 and 6?

iii) Whether the 1st Plaintiff is entitled for Recovery of Rs.2,50,000/- from the Defendants 2,5 and 6?

iv) Whether the 2nd plaintiff is entitled for Recovery of Rs.3,00,000/- from the Defendants 2,5 and 6?

v) What are the other reliefs?

7. On the side of the plaintiffs, they had examined P.W.1 and marked exhibits A.1 to A.7. On the side of the defendants, they had examined D.W.1 and marked exhibits B.1 to B.24. On perusal of the oral and documentary evidence, the trial court dismissed the suit. Aggrieved by the same, the plaintiffs preferred this appeal suit.

8. While pending the appeal suit, the plaintiffs also filed an petition in C.M.P.No.28811 of 2023 to receive 39 additional documents



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in A.S.No.701 of 2023 on the ground that the defendants had filed Written statement after chief-examination of P.W.1 and cross-examination of P.W.1 by D.10 to D.12 and the main suit was disposed of on 18.10.2023, even before completion of a month. As such, it is obvious that there is no sufficient time available for the appellants. The documents which are intended to be marked before this court, were not permitted to be marked by the trial court.

9. The learned Senior Counsel appearing for the appellants submitted that the 1st appellant started the 2nd plaintiff school. It was constructed and is functioning peacefully with above 3000 students besides 175 teaching and non-teaching staffs who were employed in the 2nd plaintiff's school. On 27.11.1995, one of the Founder/Permanent Trustee by name Arumugam expired. In his place, the eldest son of 10th defendant was appointed as one of the Trustee. In a meeting dated 27.12.2018, the Board of Trustees were duly elected and according to their responsibilities, they have started discharging their duties. Thereafter, three more trustees were also elected and appointed as Board



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of Trustees. They are arrayed as 9th plaintiff and 11th and 12th defendants. Subsequently, there were transposed as plaintiffs, dissident trustees namely the 2nd and 3rd defendants with rowdy elements barged into the 2nd plaintiff school and created law and order problem. Therefore, they obtained police protection in W.P.No.14669 of 2019 before this court on 23.05.2019 and 11.06.2019 respectively, thereby ordered to safeguard the school students for a period of three weeks. Therefore, the plaintiffs filed suit for permanent injunction, along with they have also filed three petitions for interim injunction. The injunctions were granted and made absolute. Aggrieved by the same, the defendants filed appeal before this court in C.M.A.Nos.4764, 4769 and 4770 of 2019. This Court by order dated 19.09.2023 directed the parties to maintain status quo and directed the trial Court to dispose the suit on or before 18.10.2023. Further, this court directed to complete the evidence on or before 29.09.2023 and defendants' evidence to be completed on or before 10.10.2023. Further, specifically directed the trial Court not to entertain any other petitions. Therefore, 39 documents were not allowed to mark by the trial Court and the trial Court allowed the plaintiffs to



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mark only 7 documents i.e., Ex.A1 to A7. Therefore, the plaintiffs were not given any opportunity to mark those documents which are vital to the suit. Therefore, it is just and necessary for this court to allow the said petition to receive additional documents.

9.1. He further submitted that apart from this suit, there are three other suits pending in respect of the similar issues between the plaintiffs and the defendants. However, the trial Court in a hurried manner, dismissed the suit without even allowing the plaintiffs to mark the vital documents in order to prove their case. In fact, the defendants did not even enter into the witness box in order to disprove the case of the plaintiffs. Only based on the evidence of D.W.1, subsequently who has transposed as plaintiff, the trial Court dismissed the suit. Therefore, the trial Court ought to have drawn adverse inference against the defendants 2 to 7. When the trial Court rejected the evidence of D.W.1, ought not to have relied upon the documents marked through D.W.1 namely Ex.B.1 to B.24. In fact, the trial Court failed to frame any issue on the written statement filed by the 10th defendant. Therefore, without framing any



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issues, the trial Court proceeded with the validity of resolutions dated 15.02.2019, 27.12.2018, 19.03.2023 and 06.07.2023. In support of his contention, he relied upon the judgement in the case of ***Iswar Bhai C.Patel Aliash Bachu Bahi Patel Vs Harihar Behera and another*** reported in ***1993 (3) SCC 457***. In which the Hon'ble Supreme Court of India held that having not entered into the witness-box and having not presented himself for cross-examination, an adverse presumption has to be drawn against him on the basis of the principles contained in illustration (g) of Section 114 of the Evidence Act. He also relied upon the judgement in the case of ***Vidhyadhar vs Manikrao and another*** reported in ***1999 (3) SCC 573***, in which the Hon'ble Supreme Court of India held that where a party to the suit did not appear for the witness-box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not correct.

9.2. He further submitted that Ex.B16 is concerned, the defendants admitted that the office bearers were selected on 27.12.2018 and



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continued to be office bearers till passing of resolution dated 19.03.2023.

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One of the trustee was appointed on 15.02.2019 and the 10th appellant was elected as Vice President of the 1st plaintiff Trust. Therefore, the resolution passed dated 15.02.2019 electing the plaintiffs 8 to 10 as trustees as admitted document cannot be held as against the plaintiffs. In support of his contention he relied upon the judgement in the case of ***Union of India vs N.Murugesan*** reported in **2022 (2) SCC 25**, wherein it is held as follows:

Approbate and reprobate

"26. These phrases are borrowed from the Scots law. They would only mean that no party can be allowed to accept and reject the same thing, and thus one cannot blow hot and cold. The principle behind the doctrine of election is inbuilt in the concept of approbate and reprobate. Once again, it is a principle of equity coming under the contours of common law. Therefore, he who knows that if he objects to an instrument, he will not get the benefit he wants cannot be allowed to do so while enjoying the fruits. One cannot take advantage of one part while rejecting the rest. A person cannot be allowed to have the benefit of an instrument while questioning the same.



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Such a party either has to affirm or disaffirm the transaction".

10. Per contra, the learned counsel for the respondents 9 to 11 submitted that the suit itself is not maintainable and it is devoid of merits. The period of office bearers is only two years and therefore the plaintiffs continued even if selected on 27.12.2018 would cease after two years. It is also admitted by the P.W.1 that fresh suit itself has become infructuous. Admittedly, the new office bearers were elected in the meeting held on 19.03.2023 and the plaintiffs already challenged the said meeting in O.S.No.290 of 2023 and no interim order was passed in the said suit. Therefore, they have to workout their remedy in O.S.No.290 of 2023 and this appeal fails and liable to be dismissed. In fact, 4th plaintiff was removed from members of Trust on 02.12.2017 and so far, it has not been challenged. Admittedly, the 7th plaintiff resigned from the trust as early as on 13.04.1997 and the 3rd plaintiff resigned on 24.09.2004. Therefore, they do not have any locus to maintain the suit. However, the defendants 1 to 3 and 8 to 11 are the Trustees of the 1st plaintiff's trust. Hence, there cannot be an injunction as against the Trustees from



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entering the suit properties which belongs to the trust.

11. The learned counsel for the 7th respondent would submit that now more than 3000 students are studying in the 1st plaintiffs school. Now, because of the interference by the other respondents, they could not able to pursue their studies. In the interest of the said school, to restrain the interference of other respondents, though other suits are pending with regard to similar issues, the trial Court ought not to have dismissed the suit for injunction. Admittedly, the plaintiffs are elected trustees and they are continued as trustees. Therefore, their administration of the trustees in the trust and school cannot be disturbed by the other respondents.

12. Heard, the learned counsel appearing on either side and perused the materials place before this Court.

13. Having regard to the pleadings, evidence and the submissions made by the learned counsel appearing on either side, the following points arise for consideration in this appeal : -



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i) Whether the petition in C.M.P.No.28811 of 2023 can be allowed to receive 39 additional documents?

ii) Whether the plaintiffs are entitled to the relief of injunction?

iii) Whether an adverse inference can be drawn for non examination of defendants?

14. The 1st plaintiff is the Trust and the 2nd plaintiff is the school. As per the Trust Deed, the Board of Trustees can be appointed as office bearers only for two years. At the general body meeting, normally the term of office bearers is only for two years. If the majority of the trustees of the board so desired, the term of the office bearers can be extended for one year and authorized by the majority of Trustees. Therefore, period of office bearers including the 4th plaintiff and the respondents 9 to 10 is only for two years normally from 15.01.2019 to 14.01.2021. Admittedly, no extension of one year was granted for the office bearers in the Board of Trustees meeting. Only based on the temporary injunction granted in the suit, the plaintiffs 3, 4 and 9 were administered the trust. Therefore, the defendants alleged that they started to convert first plaintiff's



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properties as their properties and also misappropriated the funds of the 1st plaintiff and the 2nd plaintiff. Therefore, the majority of the Trustees filed suit in O.S.No.741 of 2022 by directing the board of Trustees to conduct the election to elect for the post of new office bearers for the trust. On 16.03.2023, convened the Board of Trustees Meeting and majority of Trustees were appointed. Infact, after receipt of notice, the 4th plaintiff had objection and sent an objection letter dated 17.03.2023. The 3rd defendant issued a reply on 18.03.2023 and rejected the objection raised by the 4th plaintiff.

15. On 19.03.2023, meeting was held and passed resolutions. Accordingly, new office bearers were elected and the same was announced on 20.03.2023 in the notice of the 2nd plaintiff. Subsequently, suit in O.S.No.741 of 2022 was withdrawn on 30.03.2023. Thereafter, the said meeting was challenged by the 4th plaintiff in O.S.No.290 of 2023 and the same was pending without any interim order. Therefore, there is no bar for the office bearers, for their activities in pursuant to their selection. That apart, the 3rd plaintiff had resigned in the year 2004



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itself from the 1st plaintiff's Trust. His resignation was duly accepted on 24.09.2004 in the Board of Trustees meeting. The 7th plaintiff also relieved from the trust as per meeting held on 13.04.1997. As per the complaint, the 7th plaintiff admitted that they have already relieved from the 1st plaintiff's Trust and they did not have any hold in the 1st plaintiff's Trust. However, the 3rd plaintiff, 8th defendant and the 7th plaintiff are the Trustees of the 1st plaintiff Trust.

16. On perusal of the Ex.A.2, selection of new office bearers revealed that as claimed by the plaintiffs, on 27.12.2018 resolution was passed in the Board of Trustees meeting held on the same day. However, the 4th plaintiff had signed the notice dated 02.07.2023. Further, the meeting of board of trustees to be held on 06.07.2023. Therefore, it was objected by the defendants by the objection letter which was marked as Ex.B.20. Admittedly, the plaintiffs without challenging the removal or appointment, they have no locus to file a suit. When the resolution was passed in the meeting dated 19.03.2023, the plaintiffs are not entitled for any relief in the present suit. Further, the first plaintiff Trust came into



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existence by the trust deed dated 30.01.1995. As per the Trust Deed, the following persons are the founders/Permanent Trustees :

- 1) G.S.Ramasamy
- 2) M.V.Thangannan
- 3) T.Chinnasamy
- 4) R.Ramamoorthy
- 5) P.Senniappan
- 6) A.Velusamy
- 7) S.R.Arumugham
- 8) M.Subramaniam
- 9) G.Manoharan
- 10) G.Rathinasabapathy
- 11) R.Muthusamy.

17. On 27.11.1995, one of the Trustee Arumugam expired and his son was appointed as one of the Trustee as per the Trust Deed. In respect of the dispute with regard to administering the Trust, the 1st plaintiff and the 2nd plaintiff, apart from the present suit, they filed the following



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three other suits and the same are pending.

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<i>Sl</i>	<i>Case Number</i>	<i>Plaintiff(s)</i>	<i>Defendant(s)</i>	<i>Prayer</i>
1.	O.S.No.52 of 2019 (2nd Addl. District Judge, Tiruppur	M/s.Ponni Charitable Trust, Rep. by M.Subramani	1. Chinnasamy 2. Thangannan 3. Ramasamy 4. Ramamoorthy	a) for permanent injunction restraining the defendants, their men and agents or any persons claiming through them from in any way including with the peaceful possession and enjoyment of the suit property by the Plaintiff trust in any manner whatsoever including claiming themselves as the trustees of plaintiff either by trespassing in to the suit properties or by otherwise. b) directing the defendants to pay the plaintiff the costs and c) pass such further or other orders which may deem fit and proper in the circumstances of the above case and render justice.
2.	O.S.No.454/ 2020 (2nd Addl. District Judge, Tiruppur	1.M/s.Ponni Charitable Trst, Rep by R.Ramsamy, 2.M/s.Literacy Mission Matriculation Hr.Sec. School, 3.G.S.Ramasam	1.G.Rathinasaba pathy 2.Ramathal 3.Senthilkumara n 4.Rayappan 5.Kalaivani 6.Dhanalakshmi Subramaniam	a)declaring that the alleged Extraordinary Executive Committee Meeting held on 22.08.2020 and the resolutions passed thereon are illegal, invalid and void-ab-initio and not binding on the Plaintiffs.



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<i>Sl</i>	<i>Case Number</i>	<i>Plaintiff(s)</i>	<i>Defendant(s)</i>	<i>Prayer</i>
		y 4.R.Ramamoorthy 5.T.Chinnasamy 6.Senniyappan 7.MV.Thangannan 8.Gunasekar 9.Sathyaraj Ramamoorthy, 10.P.Ganeshamoorthy	7.Revathi 8.Manokaran 9.Velusamy 10.Senthilkumar	b) for a declaration that the 1st defendant was not validly elected as Trustee of the 1st Plaintiff Trust on 22.08.2020. c) for a Permanent Injunction restraining the 1st defendant, his agents and men from in any manner entering the suit properties and preventing the peaceful possession and enjoyment of the suit properties by the plaintiffs. d)for a Permanent injunction restraining the 2nd defendant, her agents and men from in any manner entering the suit properties and preventing the peaceful possession and enjoyment of the suit properties by the plaintiffs. e)for a permanent injunction restraining the 3rd defendant, his agents and men from in any manner entering the suit properties and preventing the peaceful possession and enjoyment of the suit properties by the plaintiffs. f)for a Permanent Injunction restraining the 4th defendant, his agents



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<i>Sl</i>	<i>Case Number</i>	<i>Plaintiff(s)</i>	<i>Defendant(s)</i>	<i>Prayer</i>
				and men from in any manner entering the suit properties and preventing the peaceful possession and enjoyment of the suit properties by the plaintiffs. g)for a Permanent Injunction restraining the 5th defendant, his agents and men from in any manner entering the suit properties and preventing the peaceful possession and enjoyment of the suit properties by the plaintiffs. h) for a Permanent Injunction restraining the 6th defendant, his agents and men from in any manner entering the suit properties and preventing the peaceful possession and enjoyment of the suit properties by the plaintiffs. i) for a Permanent Injunction restraining the 7th defendant, his agents and men from in any manner entering the suit properties and preventing the peaceful possession and enjoyment of the suit properties by the plaintiffs. j) for the costs of the suit



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<i>Sl</i>	<i>Case Number</i>	<i>Plaintiff(s)</i>	<i>Defendant(s)</i>	<i>Prayer</i>
				and k) grant such further or other reliefs as this Hon'ble Court may deem fit to grant in the circumstances of the case and render justice.
3.	O.S.No.290/2023 (2nd Addl. District Judge, Tiruppur)	1.M/s.Ponni Charitable Trust, Rep. by R.Ramamoorthy 2. M/s.Literacy Mission Matriculation Hr.Sec School Rep.by R.Ramamoorthy 3.R.Ramamoorthy 4.G.S.Ramasamy 5.T.Chinnasamy 6.M.V.Thangannan 7.P.Ganeshamoorthy 8.Sathyaraj Ramamoorthy	1.G.Manoharan 2.S.A.Senthil Kumar 3.A.Velusamy 4.G.Rathinasabapathy 5.M.Ramathal 6.S.Senthilkumar 7. G.Gunasekar	a)declaration that the so called meeting held on 19.03.2023 is illegal, invalid and void ab initio and not binding the plaintiffs. b) declaration that the so called resolutions passed in the illegal meeting held on 19.03.2023 are illegal, invalid and void ab initio. c) declaration that the alleged removal of the 4th plaintiff from the Board of Trustees is illegal, invalid and void ab initio. d)declaration that the alleged removal of the 7th Plaintiff from the Board of Trustees is illegal, invalid and void ab initio. e)declaration that the alleged removal of the 8th plaintiff from the Board of Trustees is illegal, invalid and void ab initio f) declaration that the election of the defendants 4,5 and 6 as trustees are illegal, invalid and void ab



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<i>Sl</i>	<i>Case Number</i>	<i>Plaintiff(s)</i>	<i>Defendant(s)</i>	<i>Prayer</i>
				initio and will not bind the plaintiffs, g)the relief of permanent injunction against the 4th defendant from functioning as Trustee. h) the relief of permanent injunction against the 5th defendant from functioning as Trustee. i)the relief of permanent injunction against the 6th defendant from functioning as Trustee. j) Grant costs of suit and k)grant such further or other reliefs as this Hon'ble Court may deem fit to grant in the circumstances of the case.

18. Therefore, till the plaintiffs succeed in the above suits, they are entitled for consequential relief of injunction. Therefore, the present suit is filed only for praying injunction and it was rightly dismissed by the trial Court. On perusal of the records also revealed that the 4th plaintiff was elected as President of the 1st plaintiff's Trust and other office bearers were also elected in the board of trust meeting held on 27.12.2018. Now, the plaintiffs have filed the suit based on their



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selection in the meeting dated 27.12.2018. The defendants specifically contended that the said meeting was not conducted properly as per the bye-laws. The defendants 10 to 12, subsequent to the suit, transposed themselves as plaintiffs 5, 8 to 10. The 10th defendant leveled serious allegations as against the plaintiffs 3, 4 and 7 with regards to their administration of the trust and misappropriated the trust property and diverted them into their private properties.

19. Therefore, they cannot deny in their plaint pleadings by filing written statement, is totally contradictory to plaint averments. Therefore, the 10th defendant is estopped from deposing against his own pleadings. Further, the defendants raised objection with regards to meeting held on 27.12.2018, alleging that there was no proper quorum to conduct meeting as per clause 4 of the Trust Deed. The meeting should be convened by the Board of Trustees and atleast 7 trustees have to be presented for conducting the meeting and to pass resolution. On perusal of the Ex.A.2 revealed that the 7 trustees were participated, in which the plaintiffs 3, 4,6,7 and defendants 8 to 10 participated and signed in the resolution as



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stated supra. The 3rd plaintiff had already resigned in the year 2004 itself from his Trusteeship and the same was duly accepted on 24.09.2004. The 8th defendant had resigned on 23.06.1996 and the same was also duly accepted. The 7th defendant had been relieved from the Trust based on his Trusteeship as per meeting held on 13.04.1997. As far as the 7th plaintiff and 8th defendant they were not Trustees on 27.12.2018. As far as the 6th plaintiff is concerned, he was admitted in hospital on 18.12.2018 to 03.01.2019. Therefore, he authorized the 4th plaintiff to sign on his behalf. However, it was not proved before the trial Court.

20. Even assuming that the office bearers have claimed that the plaintiffs were selected on the meeting dated 27.12.2018, as per the trust deed, their tenure is two years and after completion of two years it would have ceased from their Trusteeship. Thereafter, the defendants convened Board of Trustees meeting and passed resolution on 19.03.2023. Accordingly, new office bearers were elected. In fact, the said resolution has been challenged by the 4th plaintiff in O.S.No.290/2023 and it is pending without any interim order. Hence, the judgments cited by the



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learned Senior Counsel appearing on behalf of the plaintiffs are not helpful on the case on hand.

21. Therefore, all the points are answered in favour of the defendants. As such, this court finds no infirmity or illegality in the judgment and decree passed by the trial Court. Accordingly, this appeal suit is dismissed and the judgement and decree passed in O.S.No.300 of 2019 dated 18.10.2023 on the file of the II Additional District & Sessions Court, Tiruppur is confirmed. Therefore, the documents which are sought to be received as additional documents cannot be permitted. Hence, the petition in C.M.P.No.28811 of 2023 is dismissed. Consequently, connected miscellaneous petitions are also closed. No order as to costs.

11.01.2024

Index : Yes / No
Internet : Yes / No
Speaking order /Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

The II Additional District & Sessions Court,
Tiruppur.

AS.No.701 of 2023 and
C.M.P.Nos.24588,24589,24590 and
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