



A.No.1230 of 2024

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WEB C **N.SATHISH KUMAR, J.**

This application has been filed to withdraw the suit in O.S.No.145 of 1935 along with the Interlocutory Applications pending on the file of the learned Subordinate Judge at Coimbatore and transfer the same to the file of this Court under Clause 13 of the Letters Patent to be heard and decided by this Court.

2. The main grievance of the applicants are that though the scheme has been framed in the suit in O.S.No.145 of 1935 before the Principal Subordinate Court, Coimbatore, application was filed for amending the scheme. Such application is pending from the year 2012 and the same is not disposed of. Hence, it is the grievance of the applicants that the application was filed only to maintain dynamic equilibrium so that the object of the Trust shall be strictly implemented for the benefit of the beneficiaries contemplated under the Charities. Since, the application was not disposed of, the present application is filed under Clause 13 of Letters Patent.

3. Counter has been filed by the first respondent. Mr.M.K.Kabir, learned Senior Counsel appearing for the fourth respondent submitted that the fourth respondent is sailing with the applicant.



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4. The learned Senior Counsel for the respondents 1, 2, 3 and 6 opposed the application on the ground that the transfer cannot be maintained at this stage, if at all, the delay is only on the part of the Principal Subordinate Court, there can be a direction to dispose of the application within a time period. Hence, it is the contention of the respondents that since the trust properties are situated in Coimbatore and any suit has to be filed for removal of trustees only the jurisdictional court has to be approached. Therefore, at this stage, the suit cannot be transferred.

5. Heard Mr.R.Sankaranarayanan, learned Senior Counsel for the applicant; and Mr.A.K.Sriram, learned Senior Counsel for the respondents 1, 2, 3 and 6 and Mr.M.K.Kabir, learned Senior Counsel for the fourth respondent and perused the materials placed on record.

6. Though this Court can exercise Extraordinary Original Jurisdiction under Clause 13 of Letters Patent to remove any suit from any of the Court to this Court to decide the matter, the fact remains that the Scheme is already framed by the learned Principal Subordinate Judge, Coimbatore in the year 1936 itself and the Scheme framed by the Court is followed all these days in the Trust. Now, the grievance of the applicants are that since the there are some



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amendments required in the Scheme framed by the Principal Subordinate Court, they have filed an application in the year 2012, however, the same has not disposed of. In one way or other the matter is getting delayed. As rightly pointed out by the learned counsel for the respondents 1, 2, 3 & 6, since the trust properties are situated in Coimbatore, as the Scheme is already framed, any amendment or alterations are to be done by the same Court. Therefore, merely, because the disposal of the application is delayed, as a matter of right, one cannot seek transfer of application for disposal before this Court.

7. Though this Court has got Extraordinary Original Civil Jurisdiction to transfer or remove any suit from any of the Court to try the same before this Court, the fact remains that the suit is already disposed of and the application alone is pending in the Scheme Court. Only the Scheme Court can look into and decide the same.

8. Such view of the matter, this Court is not inclined to invoke Clause 13 of Letters Patent to transfer the pending application at this stage.

9. However, considering the long pendency of the application before the Scheme Court, this Court directs the learned Principal Subordinate Judge, Coimbatore to dispose of the application in I.A.No.943 of 2012 in O.S.No.145



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of 1935 and pass appropriate orders on merits taking note of the object of the Scheme and Trust Deed. There shall also be a direction to the learned Principal Subordinate Judge, Coimbatore to dispose of the application on or before 31.07.2024 and file a compliance report before this Court.

10. Accordingly, this application stands disposed of.

26.03.2024

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To

The Principal Subordinate Judge
Principal Subordinate Court
Coimbatore

N.SATHISH KUMAR, J.

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