



C.R.P.D(MD)Nos.1102 and 1103 of 2021 and
C.M.A.(MD).No.706 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.D(MD)Nos.1102 and 1103 of 2021 and
C.M.A.(MD).No.706 of 2021
&
C.M.P.(MD).Nos.6440 of 2021 and 12544 of 2022

1.Dr.R.Palani

2.Suganalatha

... Petitioners in C.R.P.D(MD)Nos.
1102 and 1103 of 2021

Vs.

1.The Chairman/Managing Director
Industrial Development Bank of India
having its corporate office at IDBI Tower
WTC Complex, Cuffe Parade
Colaba, Mumbai-400 005

2.The Industrial Development Bank of India
Trichy Branch
Rep by its Manager
having its corporate office at Dukes Complex
No.20, Bharathiar Salai
Cantonment
Tiruchirappalli-620 001



C.R.PD(MD)Nos.1102 and 1103 of 2021 and
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3.Karpooora Sundara Pandiyan

.. Respondents in both the cases

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 19.03.2021 passed in I.A.No.43 and 44 of 2017 in O.S.No.52 of 2011 on the file of the learned II Additional District Judge, Trichy.

For Petitioners : Mr.Vigneswaran
for
Mr.P.Senthil

For Respondents : Mr.Nagendran for R2

No Appearance for R1 and 3

C.M.A.(Md).No.706 of 2021

1.Dr.R.Palani

2.Suganalatha

... Appellants

Vs.

1.Ritu Chirag Patel

2.Neelam Sudir Lal

3.The Chairman/Managing Director
Industrial Development Bank of India
having its corporate office at IDBI Tower
WTC Complex, Cuffe Parade



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Colaba, Mumbai-400 005

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Tiruchirappalli-620 001

3.Karpooora Sundara Pandiyan

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Order 43 R (1) of C.P.C against the fair and decreetal order dated 19.03.2021 passed in I.A.No.494 of 2017 in O.S.No.52 of 2011 on the file of the learned II Additional District Judge, Trichy.

COMMON ORDER

These Civil Revision Petitions are filed against the defendants in O.S.No.52 of 2011 aggrieved by certain observations made by the learned trial court in its common order date and 19.03.2021, in I.A.NOS.43,44 and 494 of 2017 in O.S.No.52 of 2011 to the following extent:



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“....

Admittedly the plaint pleadings were filed at the instruction of the old trustees. But, after they relieved from the board of trustees, they cannot claim personal interest through plaint pleadings. Hence, the old trustees can file new pleadings in the written statement after transpose as defendants of the suit. The old trustees have two options, one is to file fresh suit and another to raise counter claim as defendants. If they file counter claim in the written statement their right can be decided in this suit. Therefore, considering the circumstance of the case and rights of the parties, it is proper to transpose the old trustees as defendants in the suit.”

2. One M/s. Alpha Foundation for Education and Research, registered as Charitable Educational Trust represented by its trustees viz., Dr. Palani and Suganalatha filed suit in O.S.NO.52 of 2011 against the IDBI bank, Limited and another for recover recovery of an amount of Rs. 1,81,01,496/- on the file of the Court of the II Additional District Judge, Tiruchirappalli. During the pendency of the said suit, the two trustees who



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represented the plaintiff in the said suit claimed to have entered into an Memorandum Of Understanding (in short MOU) dated 16.10.2014 with one Ritu Chirag Patel and Neelam Sudhir Lal, filed I.A.No.44 of 2017 seeking to substitute themselves as plaintiffs in O.S.No.52 of 2011, in the place of the above said trust. Along with the said application, the said two trustees also filed I.A.No.43 after 2017 to transpose the plaintiff trust as 4th defendant in the suit. At the same time, two other persons, namely Ritu Chirag Patel and Neelam Sudhir Lal claiming to be the new trustees appointed in the place of original trustees, filed I.A.No.494 of 2017 in O.S.No.52 of 2011 seeking to substitute their names in the place of Dr.R.Palani and Suganalatha.

3. The MOU dated 16.10.2014 which is the basis for the original two trustees to file I. A.Nos.43 and 44 of 2017 is seriously disputed by the new trustees. The learned trial court having taken note of the same dismissed I.A.Nos. 43 and 44 of 2017. However, considering the admitted fact that the above said new trustees were appointed in the place of old trustees allowed I.A.No.494 of 2017 by common order dated 19.03.2021. Aggrieved by the said order, the old trustees filed these two Civil Revision Petitions and the



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Civil Miscellaneous Appeal.

4. The description of the parties in the interlocutory applications filed before the learned trial court as well as before this court in these two Civil Revision Petitions and Civil miscellaneous appeal is not appropriate and therefore this court is not inclined to refer to them by their status in their respective cases before this Court. Instead they are referred to by their individual status.

5. Learned counsel for the petitioner contented that in terms of the MOU dated 16.10.2014, the old trustees are entitled to recover all the amounts that are due and receivable by the trust on or before 31.03.2014 and equally all the liabilities of the said old trustees and therefore they are entitled to come on record as plaintiffs in O.S.No. 52 of 2011 by replacing the trust. The entire basis for filing I.A.Nos.43 and 44 of 2017 by the old trustees is the MOU dated 16.10.2014. The said MOU was seriously disputed by the two new trustees. There is no dispute about the two trustees, who came into the trust. In the absence of any dispute about the status of new trustees and their



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right to represent the plaintiff trust, the dispute raised by the said trustees disputing the MOU and the claim of the old trustees to come on record as plaintiff in the main suit cannot be allowed. As the MOU dated 16.10.2014, which is the basis for the old trustees to claim rights and to come on record in O.S.No.52 of 2011 is disputed, it is for the said trustees to work out their remedies either by seeking specific performance of the said MOU or otherwise as may be advised. In view of the dispute on the said MOU, the question of allowing the old trustees to come on record as plaintiffs in the main suit does not arise. The learned trial court has come to the right conclusion and dismissed both the applications. In so far as the application filed by the new trustee in I.A.No.494 of 2017 is concerned, in view of the admitted fact that the new trustees have already come on record as trustees in the Board of trustees of the plaintiffs trust, the said application was rightly allowed by the learned trial court.

6. The contention of the learned counsel for the petitioners that the rights of the old trustees under the MOU dated 16.10.2014 are being frustrated by simply disputing the same etc., are concerned, the same cannot



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be subject matter of adjudication in these matters. In case if the old trustees have got any right, it is always open for them to workout their remedies by initiating appropriate proceedings.

7. In the light of the above, this court does not find any error or illegality in the order passed by the learned trial court and accordingly, both the Civil Revision Petitions and the Civil Miscellaneous Application are dismissed. No costs. Consequently, Connected Civil Miscellaneous Petitions are closed.

22.03.2024.

NCC : Yes/No
Internet : Yes
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To
The II Additional District Judge, Trichy.



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MUMMINENI SUDHEER KUMAR, J.

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