



C.R.P.(MD).No.2292 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)No.2292 of 2019
and
C.M.P(MD) No.12033 of 2019

1. M.Palanirajan
2. M.G.Rajendran
3. M.G.Mahendran
4. M.G. Deviendran
5. M.G.Kannan
6. M.G.Prabhu

... Petitioners/Respondents 1 and 3 to 7
Defendants 1 and 3 to 7

-vs-

1. Mei.Karupana Konar Charitable Trust,
Through its Trustee,
S.Murugan
S/o.Sangaiya Konar,
Meiyappanpatti,
Kumaram Post,
Vadipatti Taluk,
Madurai District – 625 018.
2. S.Ravi @ Ravichandran
3. S.Ramesh



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4. S.Meiyappan

5. S.Ayyavu

... Respondents 1 to 5/Petitioners/
Plaintiffs

6. G.Vallimayil

... 6th Respondent/2nd Respondent/
2nd Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and Ex-order made in I.A.No.2309 of 2018 in unnumbered O.S.No..... of 2018 (SR.No.31176 of 2018, dated 22.11.2018) dated 29.07.2019 on the file of the Principal District Court, Madurai.

For Petitioners : Mr.P.R.Prithiviraj
for Mr.T.K.Gopalan

For Respondents : No appearance

ORDER

The present Civil Revision Petition has been filed by the defendants 1 and 3 to 7 against the order made in I.A.No.2309 of 2018 in unnumbered suit in SR.No.31176 of 2018 on the file of the Principal District Court, Madurai, granting permission under Section 92 of C.P.C.

2. The respondents 1 to 5 herein/ plaintiffs have filed the suit



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contending that a Trust has been created over the suit schedule properties by way of a registered Will dated 23.04.1922 vide Document No.18 of 1922 on the file of the Joint Sub Registrar, Madurai by one Mei.Karupana Konar Charitable Trust for public charitable purposes. However, the relatives of the said Mei.Karupana Konar are now claiming exclusive title to the property and they are alienating the suit properties. Based upon the said allegation, the present suit came to be filed with a prayer to declare that the suit schedule properties are Charitable and the religious Trust properties, for mandatory injunction directing the defendants to deliver possession, to appoint the first plaintiff who is the eldest male surviving Trustee as the Manager of the Trust and for permanent injunction not to disturb the management of the Trust other than due process of law.

3. Along with the suit, the plaintiffs had filed I.A.No.2309 of 2018 seeking permission of the Court under Section 92 of C.P.C. The defendants in the suit had filed a counter contending that the Will is neither genuine nor valid. That apart, the properties continued to be the private properties of Mei.Karupana Konar and as his legal heirs, they are entitled to deal with the properties. They have also raised a question that even assuming that a Trust



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has been created, the same is not a Public Charitable Trust attracting the provisions under Section 92 of C.P.C. The trial Court, after going through the registered Will, has arrived at a finding that a Public Charitable Trust has been created under the Will and proceeded to grant leave under Section 92 of C.P.C. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioners no Trust has been created under the alleged document dated 23.04.1922. Only an attempt is being made by grabbing the private property of the defendants. That apart, the plaintiffs are not relatives of the Karupana Konar and they have no *locus standi* whatsoever to question, as the properties belongs to all the legal heirs of the said Karupana Konar. He had further contended that the plaintiffs in the suit are not interested in the Trust and therefore they should not have been granted leave to file the present suit. The present suit has been filed only to vindicate this individual and personal rights of the plaintiffs. He had further contended that the ingredients of Section 92 of C.P.C has not been fulfilled and therefore, the application ought not to have been allowed.



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5. I have carefully considered the submissions made by the learned counsel for the petitioners and perused the materials available on record.

6. A perusal of the registered Will dated 23.04.1922 clearly reveals that the said Karuppana Konar had created a public charitable Trust for the purpose of construction of Samathi and Thanneer Panthal for the travellers. It is the specific contention of the learned counsel for the revision petitioners that the said document is not genuine and valid in the eye of law. However, the said issue has to be decided only during trial. The burden of proof is upon the plaintiffs to establish the genuineness and validity of the registered Will for getting the reliefs as prayed for in the suit. Therefore, the plaintiffs have made out a *prima facie* case for granting leave under Section 92 of C.P.C.

7. In view of the above said fact, there are no merits in the Civil Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No



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Index : Yes / No

Internet : Yes / No

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To

1. The Principal District Court,
Madurai.

R.VIJAYAKUMAR,J.

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