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Appln.No.2633 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Appln.No. 2633 of 2023

In

C.S.No.15 of 1967

1.Rehana Ispahani

2.Dr. Mohameed Zaffer Ali

3.Mehmood Ali Sayed

Vs.

...Applicants

1. The administrator General
& Official Trustee of Tamil Nadu,
High Court, Madras.

2.Dr.P.Murugan
Then administrator General & Official Trustee,
Now poted s the Presiding Officer,
Labour Court, Salem.
(2nd respondent impleaded as per order dated
21.07.2023 in Application No.2633 of 2023)

... Respondents

Prayer: Application filed under Order XIV Rule 8 of the Original Side Rules
r/w. Section 151 CPC., to direct the respondent to reimburse the amount
illegally paid by the office of the AG & OT from and out of corpus of the
Suit Trust.



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For Appellants : Mr.T.R.Rajagopalan

Senior Counsel for

Ms.P.Venna Suresh

For Respondents : Mr.D.Lingeshwaran, AG & OT

Mr.Vijaya Narayanan

Senior Counsel for R2

ORDER

This application has been taken out to reimburse the amount illegally paid by the Official Trustee from and out of the corpus of MMI Charities.

2. The grievance of the applicants is that as per the order of this Court made in Appln.Nos. 4220 to 4222 / 2009 dated 11.09.2009, the entire income from the Trust is to be spent in the following proportion:-

(a) *Khuma:*

(Education and Medical aid) - 33% of the net income

(b) *Ramzan* - 21% of the net income

(c) *Rouza Khani* - 14% of the net income

(d) *Salat* - 15% of the net income

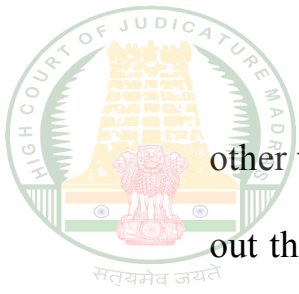
(e) *Widown and Orphans* - 17% of the net income

(to be given in 12 months)



Therefore, when the entire income was directed to be spent for certain certain specific charities, the Administrator General and Official Trustee ought not to have made applications for spending the money belonging to the Trust for several other purposes, applying the doctrine of Cyprus. It is also contended that one of the buildings belonging to the Trust had become decrypt and was demolished in the year 2012. The site was left vacant without putting up any structure thereby, denying legitimate income to the Trust. The offer made by the Advisory Board members to put up a building at their own expense was also stiffly resisted by the Administrator General and Official Trustee till recently.

3. Though Mr.T.R.Rajagopalan, learned Senior Counsel appearing for the applicants would express very serious concerns about the conduct of the then Administrator General and Official Trustee in filing applications before this Court without drawing the attention of this Court to the order passed in Appln.Nos. 4220 to 4222 of 2009 dated 11.09.2009, the learned Senior Counsel would also fairly state that the applicants are not insisting upon the reimbursement. According to the learned Senior Counsel, all that they wanted to ensure is that the funds of the Trust are not spent for purposes

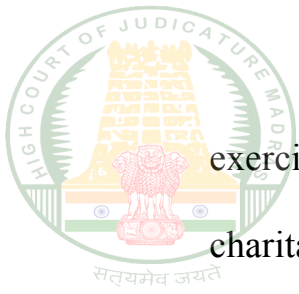


other than that specified in the order dated 11.09.2009. He would also point out that the members of the Advisory Board were not made parties to these applications and applications were filed behind their back and orders were obtained.

4. Mr.Vijaya Narayanan, learned Senior Counsel appearing for the 2nd respondent would submit that the funds that were spent on other purposes were the funds that were accumulated over a period of several years prior to the order dated 11.09.2009 and therefore, the grievance is not just.

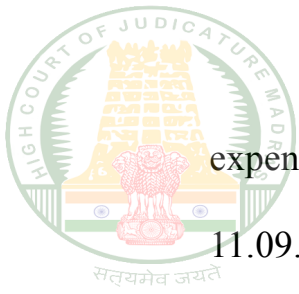
5. The learned Administrator General & Official Trustee would point out that ever since the date of the order dated 11.09.2009, the entire income of the Trust is being paid over to the Advisory Board members for being spent in the same proportion as directed by this Court. He would concede that there has been delay in making the payments.

6. Considering the submissions of the learned counsel on either side, it is felt that a rowing enquiry into the actions of the then Official Trustee may not yield any purposive result. No doubt, some care could have been



exercised while spending a large sums of money, of course, for certain charitable purposes. The fact that the monies have been spent on some genuine charitable purposes cannot be disputed. But, at the same time, it would have been appreciable, if only, the then Administrator General and Official Trustee had taken care to take into confidence the members of the Advisory Board of the Trust and acted in accordance with their opinion. To say that the term that the Advisory Board has expired and there were no members of the Advisory Board and therefore, the Official Trustee was free to spend the money the way he likes, is not an answer to the situation.

7. In any event, since the money has been spent for genuine charitable purposes, I do not think, an investigation into the issue is necessary. However, a need has arisen to fix the contours for the functioning of the learned Administrator General & Official Trustee with reference to expending the amounts belonging to the Trust, in view of the fact that the Administrator General & Official Trustee is not in absolute control of this Trust even as per the scheme degree and he has to go by the advise of the members of the Advisory Board and monies belonging to the Trust were directed to be handed over to the members of the Advisory Board for being



expended in the proportion suggested in the order of this Court dated 11.09.2009.

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8. Hence, the following directions are issued:-

i) The Administrator General & Official Trustee will act in terms of the advise of the members of the Advisory Board. He or she cannot seek permission of this Court for expending the monies belonging to the MMI Charities without express consent of the members of the Advisory Board.

ii) There is no question of any surplus arising in future as the entire income has been directed to be paid in percentage towards performance of charities vide the order dated 11.09.2009. In the event any surplus income accrues, the same shall be expended for the five purposes enumerated in the order dated 11.09.2009 and not for anything else.



9. It is stated that there is a surplus amount of Rs.82,53,490/- now available in the form of fixed deposit. The said surplus amount to be paid over to the Advisory Board members for being utilized in the construction of buildings in the Philips Street property, apart from the funds provided by SAA Ispahani Charities.

12.06.2025

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Internet: Yes / No

Index: Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No

To:-

1. The administrator General
& Official Trustee of Tamil Nadu,
High Court, Madras.

2.Dr.P.Murugan
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R.SUBRAMANIAN, J.

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