



C.R.P.(PD)NO.2329 OF 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19/09/2025

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THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.(PD)NO.2329 OF 2018
and C.M.P.NO.14458 OF 2018

1.M/s.Thiyagi Kunderathur Nagalingam
and Sankariammal Charitable Trust,
rep. by its Managing Trustee J.Paulraj (Died),
No.2, Mudichur Road, West Tambaram,
Chennai – 600 045.

2.K.Veerakumar
Son of S.V.Krishnamoorthy
Trustee Thiyagi Kunderathur Nagalingam
and Sankariammal Charitable Trust,
No.2, Mudichur Road, West Tambaram,
Chennai – 600 045.

... Petitioners / Petitioners/
Plaintiffs

Vs.

1.A.Ramanujam (Died)
2.P.B.Durgadas
3.A.V.Umapathy
4.R.Bhuvaneshwari
(Respondents 3 and 4 were already
set ex- parte in the suit)
5.R.Lakshmi
6.R.Jayaraman
7.V.Vijayalakshmi
(Respondent -1 died. Respondents 5 to 7 are brought
on record as LR's of the deceased R1 viz. Ramanujam



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vide Court order dated August, 2, 2024 made in
C.M.P.No.10440 of 2024 in C.R.P.No.2329/2018)

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... Respondents /Respondents/
Defendants

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, to set aside the Fair Order and Decreetal Order dated April 10, 2018 passed in I.A.No.871 of 2017 in O.S.No.192 of 2010 on the file of District Munsif at Tambaram.

For Petitioner : Mr.S.Balasubramaniam

For Respondents : R1 died steps taken

R3 & R4 - Given up

R2, R5 to R7 – served
- No appearance

ORDER

Aggrieved by the dismissal Order dated April 10, 2018 passed in I.A.No.871 of 2017 in O.S.No.192 of 2010 on the file of the District Munsif Court, Tambaram, the petitioner / plaintiff therein has preferred this Civil Revision Petition.

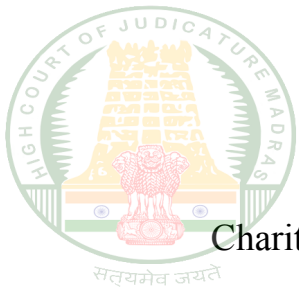


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2. During the pendency of this Civil Revision Petition, the first respondent / first defendant passed away and hence, his legal heirs were impleaded as Respondent Nos.5 to 7 vide Order of this Court dated August 2, 2024 made in Civil Miscellaneous Petition No.10440 of 2024.

3. Despite sufficient service, Respondent Nos.2, 5 to 7, did not come forward to contest this Civil Revision Petition. Respondent Nos.3 and 4 said to be sub-tenants of first respondent were given up in this Civil Revision Petition as the Original Suit was dismissed *qua* them.

4. The case of the revision petitioner / plaintiff in the Original Suit is that the suit property and some other properties were originally owned by Thyagi Kundrathur A.Nagalinga Mudhaliar, who let out the suit property to the first respondent / first defendant in 1983 for a monthly rent of Rs.300/-. The original owner - Thyagi Kundrathur A.Nagalinga Mudhaliar passed away in March 16, 1989. His wife - Mrs.Sankariammal had predeceased him. The couple had an adopted daughter - K.N.Nirmala. After the demise of Thyagi Kundrathur A.Nagalinga Mudhaliar, K.N.Nirmala along with her father's friends, created the petitioner / plaintiff trust - M/s.Thyagi Kundrathur Nagalingam and Sankariammal



Charitable Trust vide Registered Trust Deed dated January 11, 1990.

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Subsequent to demise of Thyagi Kundrathur A.Nagalinga Mudhaliar, the first respondent was paying rent to the plaintiff trust for some time and thereafter defaulted. Hence, the trust being a public charitable trust, is represented by its Managing Trustee - J.Paulraj filed the Original Suit seeking delivery of vacant possession of the suit property. Respondent Nos.2 to 4 / Defendants 2 to 4 are subtenants under first respondent / first defendant and hence, they are impleaded as parties.

5. That being the case of the petitioner / plaintiff in the Original Suit, the case of the first respondent / first defendant in the Suit is that there is no such trust in existence as alleged and the petitioner/plaintiff trust is self-styled and self-made for the unlawful enrichment. It was denied that J.Paulraj was the Managing Trustee of the trust and contended that he had no locus standi to file the Suit. Thyagi Kundrathur A.Nagalinga Mudhaliar's alleged title over the suit property was denied. The alleged founder of the trust, namely K.N.Nirmala, has no right to settle the suit property in favour of trust as she is not a legal descendant/legal heir of Thyagi Kundrathur A.Nagalinga Mudhaliar. K.N.Nirmala was a mere tenant in a portion of his property and not his



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adopted daughter. J.Paulraj is himself a trespasser into the suit property and is in illegal possession of a portion of suit property. The suit property is standing in the name of one Mr.Manickam till date. Stating so, the first respondent / first defendant sought to dismiss the Original Suit.

6. After the commencement of trial, during the defendants' side evidence, J.Paulraj passed away on September 12, 2017. According to the petitioner / plaintiff trust, it passed a resolution dated October 14, 2017 and authorised Mr.K.Veerakumar to conduct the case on behalf of the petitioner / plaintiff trust. Based on the alleged resolution, the petitioner / plaintiff filed a petition under Order XXII Rule 3 of the Code of Civil Procedure, 1908, which was numbered as I.A.No.871 of 2017 seeking permission to conduct the case on behalf of the petitioner / plaintiff trust by amending the cause title of the Original Suit by deleting the name of J.Paulraj and inserting Mr.K.Veerakumar's name in that place.

7. The first respondent / first defendant filed counter stating that Mr.K.Veerakumar has no *locus standi* to conduct the case and that the alleged board meeting and resolution is false, besides reiterating the averments contained in the written statement.



WEB COPY **8.** During enquiry, no oral evidence was adduced on either side, no documentary evidence on the side of petitioner and Ex-R.1 was alone marked on the side of respondents.

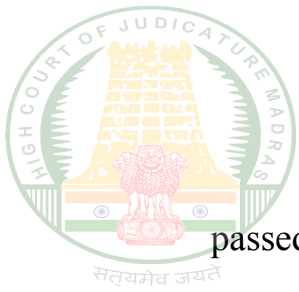
9. The Trial Court namely the District Munsif Court, Tambaram, upon hearing either side and perusing the records, dismissed the Interlocutory Application citing following reasons:

(i) The petitioner / plaintiff did not file the alleged original resolution; only a photocopy of it has been presented along with the Interlocutory Application.

(ii) No meeting was conducted by the trustees on October 14, 2017 and Mr.K.Veerakumar was not elected by the majority of the trustees, as per Ex-A.1 - Trust Deed.

(iii) As per Ex-A.1 - Trust Deed, K.N.Nirmala, J.Paulraj, V.Selvaraj, Siranjeevi Naidu and G.Rajendra Naidu are the trustees.

(iv) As per Ex-A.1, trust meetings shall be conducted either by the managing trustee or by any other trustee, and the resolution shall be



passed by majority.

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(v) In the alleged resolution dated October 14, 2017, except Siranjeevi Naidu, other trustees have not signed. Hence, it is not properly passed as per Ex-A.1 - Trust Deed and therefore, not valid.

(vi) Though the right to sue of petitioner / plaintiff trust survives, Mr.K.Veerakumar is not competent to represent the trust.

10. Feeling aggrieved by the dismissal Order, the present Civil Revision Petition has been filed by the petitioner / plaintiff trust.

11. Mr.S.Balasubramaniam, learned Counsel for the revision petitioner / plaintiff would argue that J.Paulraj was examined as P.W.1 and he clearly deposed that K.N.Nirmala is not participating in the trust activities and is acting against the trust. Ex-R.1 - Sale Agreement dated February 4, 2008, was entered into between K.N.Nirmala and Radhakrishnan Anandham has already been declared as null and void vide O.S.No.330 of 2008 on the file of the Trial Court. The Trial Court failed to consider the said fact. Further, the petitioner / plaintiff was originally



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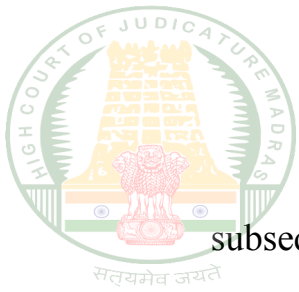
represented by J.Paulraj and since he passed away, Mr.K.Veerakumar was duly authorised by the board of trustees vide its resolution. Accordingly, he would pray to allow the Civil Revision Petition.

12. As stated *supra*, despite sufficient service, Respondent Nos.2, 5 to 7, did not come forward to contest this Civil Revision Petition and Respondent Nos.3 and 4 were given up in this Civil Revision Petition.

13. Heard on either side. This Court has perused the records.

14. The first respondent / first defendant denied the title of petitioner / plaintiff trust as well as the alleged board resolution authorising Mr.K.Veerakumar to represent the Suit. Ideally, when the genuineness of the trust is in question, all the alleged trustees ought to be added as parties. But in this case there appears to be some *inter-se* dispute as to who are all the trustees as well. The alleged resolution has been signed by one the alleged trustees namely Siranjeevi Naidu.

15. The Suit was filed by the petitioner / plaintiff represented by J.Paulraj and he examined himself as P.W.1. As he passed away



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subsequently, the petitioner / plaintiff trust, which is not a juristic person, needs to be represented to conduct trial, and trial is necessary to decide on the maintainability of the Suit, genuiness of the trust, validity of the board resolutions, title of the suit property, etc. These aspects can only be decided after trial and hence, are left open to be decided by the Trial Court.

16. In view of the peculiar facts and circumstances of the case, given that plaintiff's side evidence is completed and the case is posed for defendants' side evidence, this Court is inclined to allow the Civil Revision Petition and set aside the Order of the Trial Court passed in the Interlocutory Application. The Trial Court shall decide upon maintainability of the Suit, genuiness of the trust, validity of the board resolutions, title of the suit property and any issue consequent or incidental thereto. Both parties are at liberty to adduce evidence / additional evidence in this regard.

17. With the above observation, this Civil Revision Petition is allowed. In view of the facts and circumstances of this case, there shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.



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Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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To
The District Munsif,
Tambaram.



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R. SAKTHIVEL, J.

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