

WEB COPY

A.No.2270 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 31.07.2025	PRONOUNCED ON 26.08.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.2270 of 2025
in
C.S.Dr.No.61584 of 2025

J.Malligeswari

... Applicant/Plaintiff

vs.

1.Jai Bharath Charitable Trust,
Rep., by its Managing Trustee,
K.T.Anbazzhagan,
Chettiayappanur Village,
Vaniyambadi – 635 751

2.K.T.Anbalagan
3.S.Nithyanandam
4.A.Kesavan
5.K.Vanithamani
6.N.Vijayalakshmi
7.R.Saroja
8.M.Parimala
9.M.Kamalammal
10.C.Padmavathi
11.Dharschini Sekar

... Respondents/Defendants

For Applicant : Mr.Richardson Wilson

For Respondent : Mr.S.Thanka Sivan
for RR1,2,4,5,7 to 9 &11



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Mr.S.Sadasharam for R10

Mr.V.Z.Victor for R3

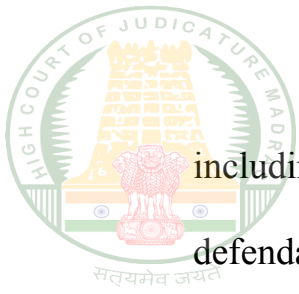
No appearance for R4 & R6

ORDER

This Application had been filed to grant leave to sue the 1st to 9th and 11th respondents/defendants on the file of this Court.

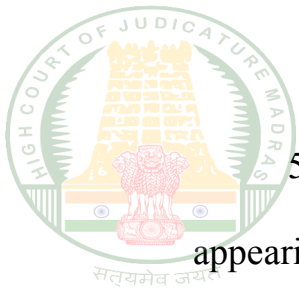
2. Heard Mr.Richardson Wilson, learned counsel appearing for the applicant, Mr.S.Thanka Sivan, learned counsel appearing for the respondents 1,2,4,5,7 to 9 & 11, Mr.S.Sadasharam, learned counsel appearing for the 10th respondent Mr.V.Z.Victor, learned counsel appearing for the third respondent.

3.The learned counsel appearing for the applicant would submit that originally this Court had framed a scheme in respect of the first respondent Trust and the Division Bench of this Court in an Intra-Court Appeal against the same had held that it is open to the interested persons to approach this Court by invoking Section 92 CPC in a particular given case. As the scheme was framed by this Court, this Court would be the appropriate Court for instituting the present Suit also. He would submit that the present Suit is for various reliefs



including to declare the removal of the plaintiff as a Trustee of the first defendant and challenging the continuation of the second defendant as Managing Trustee of the first defendant and for other incidental reliefs. He would submit that even though the first defendant is now functioning outside the jurisdiction of this Court, this Court have jurisdiction since the 10th respondent is residing within the jurisdiction of this Court and the leave is sought for to sue the other defendants, who are residing outside the jurisdiction. He would further submit that the defendants are staying at the various places and therefore, even if the Suit is instituted at Vaniyambadi, they would have to come to Court in Vaniyambadi for which they cannot be said to be prejudiced, if leave is granted to present the same before this Court.

4. Countering his arguments, Mr.S.Thanka Sivan, the learned counsel appearing for the respondents 1, 2,4,5, 7 to 9 & 11 would submit that the Suit is not maintainable before this Court, as no part of cause of action had arisen within the jurisdiction of this Court to grant leave to the applicant to sue the defendants who are not residing within the jurisdiction of this Court. Only when a part of cause of action arises, then the question of this Court to grant leave to defendants not residing within the jurisdiction of this Court arises.

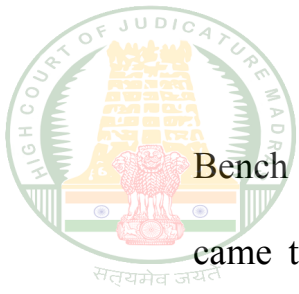


5. Supporting the submissions of Mr.S.Thanka Sivan, learned counsel appearing for the 10th respondent would submit that the resolutions challenged before this Court had been made outside the jurisdiction of this Court and only taking into reason that the 10th respondent, who may reside within the jurisdiction of this Court cannot be a reason for grant of leave. Even assuming a part of cause of action arises within the jurisdiction of this Court, this Court can always refuse to exercise its discretionary power to grant leave, as the Court in which, a part of cause of action had arisen would be convenient for all the parties by applying the principles of *forum conveniens*. Hence, he prays this Court to dismiss the application.

6. Mr.V.Z.Victor, the learned counsel appearing for the third respondent would support the claim of the applicant and pray this Court to grant leave as prayed for.

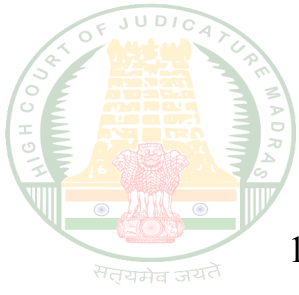
7. I have considered the submissions made by the learned counsels appearing on either side and perused the materials placed on record.

8. It is true that this Court had framed a scheme in respect of the first respondent Trust, which was approved except for one clause by the Division



Bench of this Court. While the said suit was pending, the office of the Trust came to be shifted outside the jurisdiction of this Court. The observations made by the Division Bench was only with regard to any issue only by invoking Section 92 CPC and the present Suit is not a suit filed under Section 92 CPC, but had been filed by the applicant to vindicate his private right. As rightly pointed out that no cause of action had arisen within the jurisdiction of this Court, except for the 10th defendant to be residing within the jurisdiction of this Court.

9. Grant of leave in such cases is purely discretionary. Clause 12 envisages that if at the commencement of the Suit, if the defendant dwells on or carry on business within the limits of the Court, then the Suit with the leave of this Court can be entertained. But in the present case only the 10th defendant resides within the jurisdiction of this Court and all other defendants resides outside the jurisdiction of this Court and the cause of action had also not arisen within the jurisdiction of this Court. Most of the defendants are residents of Vaniyambadi where the office of the Trust is also situated and by applying the principles of “*Doctrine of Forum Conveniens*” this Court is unable to comprehend the relief prayed for in exercising its discretionary power to grant of leave.



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10. For the aforesaid reasons, the Application stands dismissed.

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However, there shall be no order as to costs.

26.08.2025

Index : Yes / No

Internet : Yes / No

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K.KUMARESH BABU.J.,

Pbn

Pre-Delivery Order in
A.No.2270 of 2025
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