



WEB COPY

A.No.4769 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 07.08.2025	PRONOUNCED ON 26.08.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.4769 of 2024
in
C.S.Dr.No.110144 of 2024

1.Dr.Arulnithi Ayyanathan

2.N.Rajadurai ... Applicants/ Plaintiffs

vs.

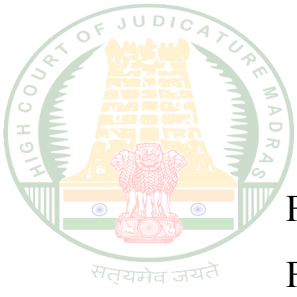
1.Annai Ammani Ammal Educational
Charitable Trust,
Rep., by its Chairman,
having office at No.37/38, Pulla Avenue,
Shenoy Nagar, Chennai – 600 030.

2.A.Rajakumari
3.Jeevagan
4.Dr.Sivanraj Ayyanathan
5.J.Amarvanjitha
6.A.R.J.Tharuunraj
7.A.R.J.Mithun Raj
8.L.Muhilan
9.M.Deepa
10.M.Chandramohan
11.Fathimasumaiya

... Respondents /Defendants

*Respondents 5 to 11 are impleaded as per order dated 29.04.2025 in
A.No.1191 of 2025*

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For Applicant : Mr.M.Balasubramanian

For Respondent : Mr.K.V.Sundararajan for
Mr.K.Gopi for RR1 & 2

Mr.S.Rajasekaran for RR3 & R5 to 7

Mr.J.Jayakumar for R4

Mr.K.Meenakshi Sundaram for RR8 to 11

ORDER

The Application in A.No.4769 of 2024 had been filed to grant leave to institute the Suit before this Court under Section 92(1) of Civil Procedure Code.

2. Heard Mr.M.Balasubramanian, learned counsel appearing for the applicants, Mr.K.V.Sundararajan learned counsel appearing for Mr.K.Gopi learned counsel appearing for the respondents 1 & 2, Mr.S.Rajasekaran learned counsel appearing for respondents 3 & 5 to 7, Mr.J.Jayakumar learned counsel appearing for fourth respondent and Mr.K.Meenakshi Sundaram learned counsel appearing for respondents 8 to 11.

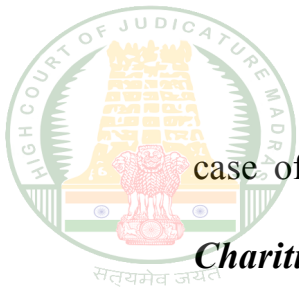
3. The learned counsel appearing for the applicant would submit that the first respondent/ Trust has established various educational institutions and that



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various disputes have started after the death of the founder Chairman and the Financial irregularity started to creep in the Management of the Trust. The suits were also filed before the City Civil Court for various reliefs and also before this Court. The suit filed before this Court, has also been transferred to the City Civil Court. He would further submit that the first applicant was appointed as a Secretary of the first respondent/ Trust in the year 2012, even during the lifetime of the founder Chairman. After the death of the founder Chairman, in view of the disputes that had arisen, he was prevented from entering into the Office of the Trust Board and other respondents took charge of the Trust and have been illegally spending the Trust money without the proper resolution of the Trust Board. There has been transfer of the assets of the Trust to another Trust and hence, the present suit had been filed under Section 92 CPC for which the present application for leave had been sought for.

4.Relying upon the judgments of the Madras High Court in the cases of ***Vellore Institute of Technology vs. G.V.Sampath & Ors.***, reported in **2015 (4) CTC 168; *Imayam Trust & Ors., vs. Balakumar & Ors.***, reported in **2015 (3) CTC 654;** and the Division Bench judgments of the Madras High Court in the



case of *Thatha Sampath Kumar & Anr., vs. Sri Vupputur Alwar Chetty's*

Charities & Ors., reported in *2019 (5) CTC 212*, the learned counsel appearing for the applicant would submit that while for granting of leave to sue only the plaint averment should be looked in and no other documents should be looked into by the Court. Further, he would submit that the applicants are also the interested parties in the suit they having had truly participated in the functioning of the Trust. They are more suitable persons to maintain the suit.

5.Countering his arguments, Mr.K.V.Sundararajan learned counsel appearing for Mr.K.Gopi learned counsel appearing for the first and second respondents/Trust would submit that even according to the plaintiff, the maladministration of the Trust has been there for over seven years. He had not made any averments as to why he had not approached this Court immediately. He would further submit that this itself would show that the reasons assigned in the plaint as well as in the application filed in support of the leave have all been concocted by the applicant to settle the private disputes between the parties. He would submit that no computers or equipments of the Trust had been sold except for a bus that too by the approval of the Board and that the

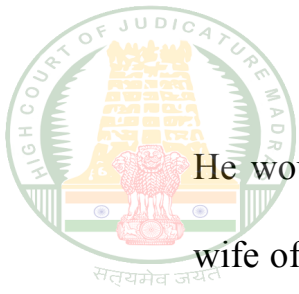


sale proceeds have been accounted. He would further submit that the primordial allegation is that the money of the first respondent/ Trust had been utilised in the purchase of the another Trust. He would submit that the purchases have been made individually by the Trustees out of their own funds and no fund of the Trust had been utilised for purchase of another Trust of similar in nature.

6.Relying upon the judgment of the Hon'ble Apex Court in the case of ***Swami Paramatmanand Saraswati & Anr., vs. Ramji Tripathi & Anr.***, reported in ***(1974) 2 SCC 695*** and ***Vidyodaya Trust vs. Mohan Prasad R & Ors.***, reported in ***(2008) 4 SCC 115***, he would submit that the suit for vindicating of private rights under Section 92 CPC cannot be maintained.

7. Mr.S.Rajasekaran learned counsel appearing for the respondents 3, 5 to 7 supporting the claim of the respondents 1 & 2 would submit that the Trust has been carrying out its duties as per the wishes of the Propounder of the Trust. He would submit that it is only on the instigation of the fourth respondent herein that the suit had now being initiated by the plaintiff.

8. He would contend that this respondents had not utilized any of the funds of the Trust for the purchase of the another Trust named Visionary Trust.



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He would submit that the Visionary Trust was created by the grandfather of wife of the third respondent and their family is running the said Trust. The bus was sold to the said Visionary Trust in the year 2016 for a valuable sale consideration and another mini bus was sold in the year 2017 also for a valuable sale consideration and the receipt of sale consideration had also been reflected in the accounts of the first respondent/ Trust. The present suit is only to counter the weakness in a suit initiated by the fourth respondent with respect to the properties belonging to the family. Relying upon the judgment of the Hon'ble Apex Court he would reiterate the arguments of the learned counsel appearing for the respondent 1 & 2 that too settle a private dispute, Section 92 cannot be used as a tool.

9. Mr.K.Meenakashi Sundaram, learned counsel appearing for the respondents 8 to 11 would also reiterate the submissions made by the learned counsel appearing for the respective counsel 1, 3, 5 to 7. He would further submit that apart from the plaint being wild, bald and defamatory there is no semblance of evidence to grant leave and is an attempt to disturb the peaceful running of the Trust of the first respondent. He would further submit that the attempt of the fourth respondent to support the applicants itself would support



the allegation that the fourth respondent is the brain behind the present suit.

Therefore, he prays this Court to dismiss the present application.

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10. Mr.J.Jayakumar learned counsel appearing for the fourth respondent on the other hand would submit that there is a clear mismanagement and misappropriation of the Trust funds by the respondents 2, 3, 5 to 11 and such mismanagement and maladministration began only after the death of the founder of the Trust. Even in the earlier round of litigation there has been a consent for an interim Administrator from the member of the family, even that has not been followed. Hence, he prays this Court to grant leave for institution of the suit for better management of the Trust.

11. I have considered the rival submissions made by the learned counsels appearing for their respective parties and perused the materials placed on record.

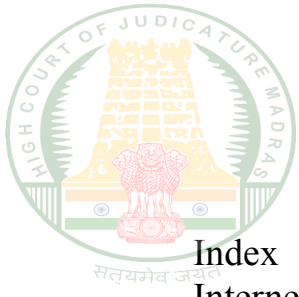
12. A very serious allegations have been raised against the functioning of the Trust. The statement of accounts of the first respondent was directed to be furnished and the transaction with regard to the purchase of the Visionary



Trust was not been pointed out to this Court by the applicants. Even though, various statements have been made in support of the respondents that the Trust had been smoothly functioning without any maladministration or misappropriation, the same can be found out only after the trial. It is true that there are certain private disputes between the applicants and the respondents 2 to 11.

13. From a reading of the averments in the plaint, it could be noted that there has been disputes with regard to the administration of the Trust even from the year 2013 which had left to an appointment of an interim Administrator by this Court. In such an event, to give a quietus to the entire issue, this Court is of the *prima facie* view that a Scheme has to be made for the smooth functioning of the Trust.

14. For the aforesaid reasons, the leave as prayed for is granted. Accordingly the application is allowed. The registry is directed to number the suit, if otherwise it is in order.



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Index : Yes / No
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Pre-Delivery Order in
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