Order reserved on 28.10.2024	Order pronounced on 10.01.2025

A.No.4700 of 2024 & O.A.No.647 of 2024
in
C.S.No.57 of 2024
and
O.A.No.191 of 2024

RMT.TEEKAA RAMAN, J.

Parties are referred to as per their ranking in the main suit.

2.The applicant/plaintiff filed the suit in C.S.No.57 of 2024 seeking partition of her 1/5th share in the Schedule A, B, C & D properties and to dissolve the 6th defendant and to render true accounts of the 6th defendant and for permanent injunction against the 7th defendant in carrying on the competing business by diverting the business of the 6th defendant in which the plaintiff is the continuing partner and other relief.

3. Along with the suit they also filed Original Application in O.A.No.191 of 2024 seeking ad-interim injunction on the above stated lines.

4. After service of notice, counter has been filed. Subsequently, due to the efforts taken by the mediation, the plaintiff filed a memo stating that as against the 'C' Schedule property, she is not press the same since the dispute has been settled out of the Court. Accordingly, by an order dated 25.06.2024, this Court has deleted the 'C' Schedule property and the plaintiff has to proceed with the suit in respect of the A, B and D schedule properties alone.

5(a). Thereafter, the plaintiff/petitioner filed an application in O.A.No.647 of 2024 seeking ad-interim injunction restraining the 7th respondent Firm from carrying on the business directly or indirectly with any third party for the purpose of production of film or any other activity in pursuance to the object pending disposal of the suit.

5(b). Another application is filed in A.No.4700 of 2024 seeking for interim direction directing the first and second respondent/defendant to restore and activate the e-mail ID of the applicant, namely, aparna@avm.co.in with full access including password pending disposal of the suit.

6. Counter filed.

7(a). The petitioner/applicant is the daughter of the first respondent and the second respondent is her twin sister. Third and fourth respondents are grandparents. Fifth respondent is the daughter of the third respondent. Sixth respondent AVM Productions is the partnership Firm wherein the petitioner/plaintiff is one of the partner. Seventh respondent AVM Studios is a registered partnership wherein except the petitioner/plaintiff, respondents 1, 2 & 3 alone are partners.

7(b). The plaint proceeds on the basis that since the petitioner/plaintiff has married out of caste, some hostile attitude has been taken by the father against her. Both the parties belongs to the reputed family in the Cine Field of Pan India Project.

8. The admitted factual matrix of the case for the determination of these applications are as under:

8(a). The applicant/plaintiff is the partner in the 6th respondent Firm and the principle business of the Firm are admitted and the plaintiff is the daughter of the first respondent and granddaughter of the third respondent is also admitted.

8(b). Reply affidavit has also been filed by the petitioner. There are allegations and counter allegations between the parties. This Court confines this petition taking the interim nature of the prayer sought for.

8(c). In sum and substance, the main grievance of the petitioner/plaintiff is that a decision to form the 7th respondent Firm by the respondents 1 to 3 was a deliberate attempt to exclude the petitioner from the family run business and the 7th respondent Firm was clandestinely floated without her knowledge. It is further alleged that the object of the newly formed 7th respondent Firm is totally identical to that of the 6th respondent Firm. The 7th respondent Firm is a special purpose vehicle (SPV).

8(d). According to the petitioner as she raised questions on the mismanagement of the 6th respondent Firm and other charitable institutions belongs to the family, her grandfather, father and the twin sister joined hands and formed the 7th respondent Firm which is identical with the 6th respondent partnership Firm by excluding the petitioner.

9. In the counter affidavit filed along with the typeset of papers, the letter from AVM Productions, e-mail sent and received by the applicant, copy of the amendment and copy of the other communications are filed.

10. Heard Mr.T.R.Rajagopalan, learned Senior Counsel appearing for the petitioner and Mr.P.H.Arvind Pandian, learned Senior Counsel appearing for the respondents.

11. From the typeset of papers, I find that by a partnership deed dated 04.07.2007, the 6th respondent Firm came into existence and the respondents 1 & 3 are having 30% share while the petitioner and the 2nd respondent are having 20% share. It was initially commenced for the object stated therein as mentioned in the clause 3. Subsequently, by a deed of amendment dated 01.04.2008, capital contribution has been increased and the percentage has been changed, namely, the grandfather (3rd respondent) is having 15% share and the father (1st respondent) is having 45% share while the petitioner and the second respondent have 20% share each.

12(a). This Court has also perused the partnership deed of the 7th respondent Firm dated 21.04.2012 wherein the respondents 1, 2 & 3 are partners in the ratio of 50%, 25% and 25% respectively. Admittedly, the petitioner/plaintiff is not a partner in the said Firm.

12(b).On perusal of the Clause 3 of the deed, this Court find that both the Clause 3 of the partnership deed of the 6th respondent and Clause 3 of the partnership deed of the 7th respondent are identical in nature except minor variation in meaning.

12(c). A supplemental deed of partnership appears to have entered between the respondents 1 to 3 on 28.5.2022. Clause 10 was incorporated in the supplemental deed which reads as under:

> *"10.The partnership deed in writing will be a Special Purpose Vehicle for the existing p artnership Firm, M/s.AVM Productions having PAN number AADFA1418R for carrying Cine feature film production TV Serials, Web Series, distribution and exploitation, running cine studios, financing and allied activities and all the Profits and Losses from the said projects shall be transferred to the Firm M/s.AVM Productions."*

13. The sum and substance is that partnership deed of the 7th respondent shall be a Special Purpose Vehicle for the 6th respondent partnership Firm having the PAN number and production. All profits and losses from the said project shall be transferred from the 7th respondent, namely the AVM Studios to the 6th respondent, namely AVM Productions. In other words, the profits and loss shall be transferred to the 6th respondent. Admittedly, the plaintiff is not a partner herein. The object of the partnership Firm is found to be identical with minor variation in words and with minor variation in meaning. However, it is an allied with regard to the object assumes significance.

14(a). Based upon the affidavit and the reply affidavit, learned Senior Counsel, Mr.T.R.Rajagopalan could contend that the 7th respondent Firm has been floated as a Special Purpose Vehicle without actually disclosing what is the special purpose for which the 7th respondent Firm has been floated by excluding the applicant herein and also stated that pursuant to the various e-mail sent by the plaintiff, the expenditure, audited statement received from the company Auditor was filed in the typeset could show that the income is Nil in respect of the 6th respondent Firm. Hence, there is a mismanagement which was questioned by the plaintiff and hence she has been excluded as a partner in the 7th respondent only with a view to finish off the 6th respondent Firm. Hence prayed for interim injunction.

14(b). The learned Senior Counsel further stated that since she is questioning the mismanagement of the first respondent in respect of the 6th respondent partnership Firm, her e-mail account was deactivated and she was unable to communicate through e-mail and hence prayed for allowing the application in A.No.4700 of 2024.

15(a). Mr.P.H.Arvindh Pandian, learned Senior Counsel for the respondents could contend that the 6th respondent partnership Firm was loss making company due to the hyperactivity of the plaintiff and as the plaintiff wanted her husband act as Hero in the movie to be promoted by the 6th respondent Firm. It is Contra to the organization policy of the AVM family that none of the family members should act in the film produced by the Firm and hence, following the organization policy, they are not yielded the request of the plaintiff's husband to be a hero in the movie produced by the company and hence the plaintiff has entertained a hostile attitude and filed a suit for partition.

15(b). Further based upon the counter filed by the party, he could contend that the partners of the 6th respondent are at liberty to form an another partnership Firm and there is no bar for the partners of the 6th respondent to form an another partnership Firm namely, 7th respondent Firm.

15(c). It is only due to the best efforts extracted by the respondents 1 to 3 in making every effort to navigate the operational difficulties caused by the plaintiff and conduct of the plaintiff refusing to cooperate in the family daily affairs including her unwillingness to sign cheques and financial statements and made it difficult for the Firm to cease for opportunities. Hence, they are forced to establish the 7th respondent Partnership Firm wherein respondents 1 to 3 are alone partners. It is aimed to create a vehicle through which they could continue movie production and other related activities in a controlled environment free from internal conflicts. Respondents 1 to 3 have ensured that profits, if any, earned by the 7th Respondent form could be transferred to the 6th Respondent Firm whereby the plaintiff/applicant, as one of the partners of the 6th respondent will continue to receive her rightful share of earnings and also submitted that formation of the 7th respondent Firm was not an attempt to exclude the plaintiff as alleged by her or neither intended to compete with the 6th respondent Firm, but it only means to circumvent the disturbance caused by the conduct of the plaintiff while still the plaintiff ensures a primary partnership could continue the operation and maintain its financial health. The arrangement made by the respondents 1 to 3 is only transparent and due to the non cooperation of the plaintiff alone.

16. On hearing the learned Senior Counsels and after perusing the deed of Partnership in respect of the 6th respondent Firm and amendment deed thereto and deed of partnership of the 7th respondent and amendment deed thereto, I find that as per Clause 10 of the amended deed of Partnership dated 28.5.2022, the 7th respondent Firm could be a Special Purpose Vehicle for the existing partnership Firm, namely 6th respondent and the profit and loss of the 7th respondent will go to the 6th respondent Firm.

16(b). However, it is noticed that the petitioner/plaintiff is not a partner in the 7th respondent Firm. In other words, the liability, if any, due to the action or inaction of the respondents 1 to 3 are likely to result in loss for the 7th respondent will also be forwarded to the 6th respondent wherein the plaintiff is a partner cannot be brushed aside slightly.

17(a). The allegations that it was due to the disrespectful action of the plaintiff as the partner of the 6th respondent Firm had resulted in the constitution of the 7th respondent Firm and capital contribution paid by the respondents 1 to 3 in respect of both the respondents 6 and 7 are disputed facts. That can be gone into only at the time of the trial.

17(b). In short in the counter at para Nos.6, 8.1 and 8.5, it is categorically admitted by the respondents who are partners of the 7th respondent Firm that the 7th respondent is only a Special Purpose Vehicle to the 6th respondent and profits and losses to the 6th respondent will be made from the 7th respondent. Attention of this Court was drawn to the financial statement and the counter affidavit filed by the respondent was taken into consideration and thus, I find that both the 6th respondent Firm and the 7th respondent Firm are carrying out identical business.

17(c). As per the plaint, the plaintiff makes a tall claim that the concept and the development of the entire show Tamil Rockerz on Cine Life is the brainchild of her and also stated that she questioned some of the alleged mismanagement of the 6th respondent charitable Firm belongs to the family. It is the specific allegation that the 7th respondent Firm was floated to give natural death to the sixth respondent. There is a complete lack of fairness and transparency in the operation of the 6th and 7th respondent Firms in the counter. The respondents 1 to 3 have admitted that the 6th respondent has zero revenue and therefore, they stopped production through the 6th respondent assumes significance.

17(d). When the admitted fact remains that the 6th respondent has no revenue, this Court is unable to understand why the respondent does not state that for a Firm which has Nil income, miscellaneous expenses are shown in crores of money. It is very natural that if income is zero, the expenditure could also be Nil or a minimal expenses for maintenance of the building. On the contrary, as per the typeset filed, I find that a sum of Rs.3,25,75,633/- has spent towards expenditure which is about 64% of the total expenses. In the counter. there is no whisper as to why such a whooping amount of three crores has been spent towards expenditure when the 6^{th} respondent Firm has earning zero percentage income remains mysterious.

18(a). The case of the respondents is that the 7^{th} respondent Firm has been floated as a Special Purpose Vehicle without actually disclosing what is Special Purpose for which the 7^{th} respondent Firm has been floated by excluding the applicant herein.

18(b). It is settled preposition of law that a registered Firm is legal entity by itself being represented by partners. When that being so, in the absence of the petitioner/plaintiff being a partner in the 7^{th} respondent, why the 7^{th} respondent Firm should transfer all its losses and profits to the 6^{th} respondent?. It raises a suspicion and if their intention was only to transfer losses and profits to the 6^{th} respondent, why they excluded the plaintiff in the 7^{th} respondent Firm. No doubt, it is open to some of the partners in one of the Firm to form another partnership deed. Had been a separate partnership Firm or for a different activity Firm. The question may not arise.

18(c). However, herein the respondents 1 to 3 alone, who are the partners in the 6th respondent Firm have chosen to form 7th respondent Firm excluding the plaintiff and the 7th respondent Firm is floated as a Special Purpose Vehicle with transferring the profit as well as loss. When the plaintiff is not a partner in the 7th respondent Firm, such clause in the 7th respondent Firm, it does not argue well for the respondent.

18(d).Hence, this Court is of the considered view that the very intention of the respondents 1 to 3 was to keep the applicant/plaintiff out of the family benefits and denying profits and benefits out of the family business by floating the 7th respondent with identical object of the 6th respondent Firm and however, to take the profits as per their share in the partnership deed and find on the losses, it may be transferred to the 6th respondent Firm. So it is only to damage the 6th respondent Firm. Even as per the present revenue statement, 6th respondent Firm earns Nil income.

18(e). Hence, I find that the plaintiff made out a *prima facie* case that the respondents 1 to 3 have indulged in deprived the business of brand AVM associated with the 6th respondent Firm and deliberately floated the 7th respondent Firm with ulterior motive.

19(a). Hence, I find that the plaintiff has made out a *prima facie* case for the relief sought for pertaining to the 7th respondent and hence, the interest of the plaintiff as a partner of the 6th respondent Firm is to be protected pending disposal of the suit and accordingly, I find that the petitioner has successfully demonstrated a *prima facie* case in her favor and balance of convenience and the petitioner will be put to loss if interim order is not granted.

19(b). Taking note of the various business activities said to have been carried by the 7th respondent Firm, as could be seen from the typeset of papers that the 7th respondent is fully flourishing in the business, which is identical with the 6th respondent Firm. Hence, this Court is inclined to issue an order of interim injunction as prayed for in O.A.No.647 of 2024.

<u>A.No.4700 of 2024:</u>

20. The petitioner/plaintiff, seeking an order of interim direction directing the respondents 1 & 2 to restore and activate e-mail ID of the applicant as stated in the petition with full access and to share

the password of the 6th respondent Firm. As on date, the petitioner/plaintiff is one of the partner having 20% share. In the counter statement, it is alleged that she has sent threatening mails to all OTT platform based on the false and fabricated theories. Admittedly, aiming to sabotage the Firms relationship with the said persons and disrupting the project. As the managing partner, the first respondent has duty to the Firm and other partners. Any misuse of official e-mail by the plaintiff which she has threatened to do multiple times to jeopardise the reputation and hence he has reason to sustain the e-mail ID for one year and now the application has been filed only an afterthought.

21(a). Per Contra, Mr.T.R.Rajagopalan, learned Senior Counsel for the petitioner, based upon the affidavit and reply affidavit, could contend that originally AVM banner belongs to the great grandfather of the petitioner since the first and second respondents are indulged in the mismanagement of the other charitable institutions found in the memory of the AVM Chettiyar, she has sent various e-mail to his father and the twin sister and hence her e-mail was deactivated.

21(b). No documents or evidence or any tangible evidence has been placed before this Court except what is stated in the counter as extracted supra. Had there been any such misuse of the e-mail ID, the same could have been brought to the notice of the applicant then and there. Admittedly, both the respondents 6 and 7 come under the flagship of AVM. It is alleged that instead of answering the uncomfortable question raised by the plaintiff, the first respondent has deactivated the e-mail.

21(c). The plaintiff has filed additional typeset. On perusal of the same, I find that after the email deactivated on 12.5.202, the first respondent sent a WhatsApp message around 04.20 p.m., stating that e-mail ID was suspended till the payment issues with g-mail is sorted out. Thereafter, in respect of the other partners, the e-mail accounts were activated except the plaintiff. Though various print out of the WhatsApp messages on issues and the deactivation of the e-mail ID, no tangible response was sent by the respondent as per the typeset of papers filed by the petitioner assumes significance.

22. Hence, I find that the plea raised by the 1st respondent in the counter that the e-mail ID given for the petitioner/plaintiff was

deactivated on the ground that the petitioner/plaintiff was misusing e-mail is only a lame excuse, especially when the e-mail IDs of others were activated within 36 hours, except the petitioner which remains continuously suspended. Hence, I find that the petitioner has made out a *prima facie* case that she being a partner in the 6th respondent Firm, is entitled to have an active e-mail ID and entitled to have a password. There cannot be suppression of minority shareholder since both the petitioner and her twin sister, namely, the second respondent are having 20% share in the partnership Firm/6th respondent Firm and hence, I find that the petitioner is entitled to have an e-mail ID in respect of the 6th respondent Firm and accordingly, this application is liable to be allowed.

23. In fine,

i. A.No.4700 of 2024 is allowed.

ii. O.A.No.647 of 2024 is allowed. There shall be an order of interim injunction as prayed for.

iii. In view of the order passed in A.No.647 of 2024, O.A.No.191 of 2024 is closed.

10.01.2025

PJL

RMT.TEEKAA RAMAN, J.

PJL

Pre delivery Order made in
A.No.4700 of 2024 & O.A.No.647 of 2024
in C.S.No.57 of 2024
and O.A.No.191 of 2024

10.01.2025