



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 06.10.2025

Order pronounced on : 10.10.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

Rev.Apln.No.160 of 2025
& CMP.No.22342 of 2025

Selvi S.Dhivya

..Applicant

Vs.

1.Senthil Educational Trust,
Rep. by its Managing Trustee Dr.E.Senthil Anand,
Periyavadavadi, Vijayamanagaram Post,
Virudhachalam Taluk, Cuddalore – 606 104.

2.Dr.E.Senthil Anand
3.Dr.E.Chandravadivu
4.Dr.N.Elavarasan
5.D.Thangarasu
6.K.Vaidyanathan
7.P.Ganesan
8.V.Prasanna
9.R.Kavitha
10.V.Prathib
11.M.Vinoth Kumar
12.S.Kalairasan
13.K.Rahulraj
14.J.Mohan Kumar

..Respondents

Prayer: Review Application filed under Order XLVII Rule 32 of CPC r/w
Section 114 and Section 151 of CPC, to review the order dated 22.08.2025 in



CRP.No.2818 of 2025 in so far as the direction given to the Additional Sub Court, Viridhachalam, Cuddalore to frame the issue with regard to whether non obtaining of leave under Section 92 of CPC would be fatal to the plaintiffs along with other issues instead of framing it as a preliminary issue.

For Applicant : Mr.V.Chandrasekaran
for Mr.Purujith Narayanan

For Respondents : Mr.S.Kanmani Annamalai
for M/s.Tamizh Law Firm for RR1 to 3

ORDER

The revision petitioner in CRP.No.2818 of 2025 has sought to review the order passed on 22.08.2025, disposing of the revision.

2.I have heard Mr.V.Chandrasekaran, for Mr.Purujith Narayanan, learned counsel for the review applicant and Mr.S.Kanmani Annamalai, for M/s.Tamizh Law Firm, learned counsel for the respondents 1 to 3.

3.The learned counsel appearing for the review applicant would submit that the suit has been filed by the Public Charitable Trust, seeking various reliefs, which are set out in the plaint and according to the learned counsel for the review applicant, the reliefs are of such a nature that would attract the



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provisions of Section 92 of CPC. He would also invite my attention to the written statement filed in the suit, where specific defence has been taken in this regard and the maintainability of the suit itself has been challenged for want of mandatory leave to be obtained, prior to the institution of the suit, under Section 92 of CPC.

4.The learned counsel for the review applicant would also bring to my notice that the plaintiffs have filed an application for amendment of the plaint and inviting my attention to the averments in the affidavit filed in support of the application, the learned counsel for the review applicant would submit that the plaintiffs are categorically admitting that the 1st plaintiff/Trust is being managed by the 6th defendant and the same is unlawful and that the defendants 2 to 12 are to be directed by way of mandatory injunction to hand over the management to the plaintiffs 2 and 3 and to restore status quo ante of the 1st plaintiff.

5.In the same breath, the learned counsel for the review applicant would also invite my attention to the application filed by the revision petitioner, seeking leave of the Court to try the objection regarding failure to obtain leave



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under Section 92 of CPC as a preliminary issue, which was much earlier than the affidavit filed by the plaintiffs themselves in March 2025. In the said application filed by the revision petitioner on 08.01.2024, the revision petitioner has categorically raised the objection regarding the mandatory pre-condition of obtaining prior leave, in order to invoke Section 92 of CPC. In the affidavit, the revision petitioner has asserted that the defendants 2 to 12 alone are in control of the management of the 1st plaintiff/Trust and the plaintiffs 2 and 3 do not have any locus to represent the 1st plaintiff/Trust and filed the suit.

6.It is therefore the argument of the learned counsel for the review applicant that if the issue of want of leave is taken up as a preliminary issue, it would save the valuable judicial time and even shorten the litigation itself and avoid parties going through elaborate trial. He would also state that the Court, under Order XIV Rule 2 of CPC, is empowered to try any issue of jurisdiction, which is a question of law, as a preliminary issue and he would therefore state that the order in the revision has to be reviewed to a limited extent to decide the issue of failure to obtain leave under Section 92 of CPC as a preliminary issue, instead of trying the same along with the other issues.



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7.Per contra, Mr.S.Kanmani Annamalai, learned counsel for the respondents would firstly submit that a review cannot be an appeal in disguise and when this Court, while disposing of the revision finally, had specifically found that there was no necessity to try the objection regarding failure to obtain leave under section 92 of CPC as a preliminary issue, the appeal cannot be re-argued under the guise of a review and the findings be challenged. He would further submit that the one another defendant, by name Mr.K.Vaidyanathan, the 3rd defendant in the suit had filed an application seeking rejection of the plaint and the said application was dismissed by the trial Court, as against which, the 3rd defendant preferred a revision under Article 227 of Constitution of India before this Court in CRP.No.2484 of 2022.

8.Inviting my attention to the findings of this Court in the said revision, the learned counsel for the respondents would submit that the issue of leave not being required has already been gone into in detail in the said order and the said order of this Court also came to be confirmed with dismissal of SLP(Civil) Diary No.40625 of 2023, by order dated 03.11.2023. He would therefore state that the question of Section 92 of CPC being tried as a preliminary issue does



not arise and rightly, while disposing of the revision, it was left open to the Court to decide the issue along with the other issues.

9.I have carefully considered the submissions advanced by the learned counsel on either side.

10.In order to maintain a review under Order XLVII of CPC, a person seeking review has to show discovery of new and important matter or evidence, which, despite exercise of due diligence, was not within his knowledge, or that it could not be produced by him at the time, when the order was made, or at least point out some mistake or error apparent on the face of record or show any other valid and sufficient reason to review the said order.

11.As rightly contended by the learned counsel for the respondents, I had taken into account the fact that the plea of suit being barred for failure to obtain leave under Section 92 of CPC was raised by the 3rd defendant and the matter went up to the Hon'ble Supreme Court. The Hon'ble Supreme Court, while disposing of the SLP, gave liberty to the 3rd defendant to agitate all his contentions in the suit. The revision petitioner is not the 3rd defendant, who sought for rejection of the plaint and approached the Hon'ble Supreme Court, challenging his application seeking rejection of the plaint, which was



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confirmed by this Court in revision. Only taking into account the liberty granted to a different defendant, I did not want to once and for all foreclose the rights of the revision petitioner and with that view alone, I had directed the trial Court to frame an issue with regard to the maintainability of the suit, without obtaining leave of the Court under Section 92 of CPC. I do not see how Order XIV Rule 2 of CPC would come into play in the present case, warranting a preliminary enquiry with regard to the said objection regarding Section 92 of CPC being attracted.

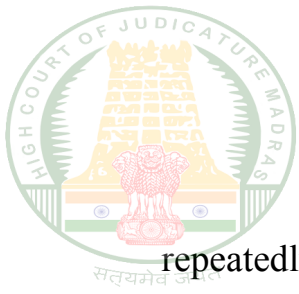
12. Even from the affidavit filed by the revision petitioner in support of the application before the trial Court seeking a direction for taking up the Section 92 of CPC objection as a preliminary issue, the revision petitioner/6th defendant, at paragraph Nos.3 and 4, has asserted that the plaintiffs 2 and 3 have been removed from the trusteeship and they have no right to represent the plaintiff/Trust and that acting in collusion, the plaintiffs 2 and 3 are attempting to gain undue advantage over the defendants 2 to 12. Reliance is also placed on the resolution said to have been passed on 01.09.2019 and Addendum Deed dated 30.09.2019. All these matters require evidence and from a mere reading of the affidavit, it cannot be shown or established that there has been collusion



as alleged and that the plaintiffs 2 and 3 are attempting to regain entry through back door means, in order to illegally grab the trust properties.

13.I do not find any grounds raised in the present review application falling within the permissible grounds available under Order 47 of CPC. There is admittedly no error apparent on the face of record shown by the revision petitioner, warranting the review to be entertained. There is also no new material or document or evidence that has come to the knowledge of the revision petitioner, which would require examination and on that ground, the review would have to be entertained. I also do not find any sufficient cause shown to review the order passed by me.

14.If at all the revision petitioner is aggrieved by the specific direction that the trial Court shall frame necessary additional issues with regard to the Section 92 of CPC objection and tried along with the other issues, the only avenue open to the revision petitioner is to challenge the order in the revision. However, under the guise of the review, the applicant is only attempting to re-argue the appeal under the guise of a review application, which is not permissible in law. This Court as well as the Hon'ble Supreme Court have



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repeatedly come down on such attempts to file review petitions and under the guise of such review, re-argue the very appeal or revision petition itself.

15. In the light of the settled legal position, I am not inclined to accept the argument of the learned counsel for the review applicant that the order dated 22.08.2025 is required to be reviewed.

16. For all the above reasons, the Review Application is dismissed. There shall be no order as to costs. Connected, Civil Miscellaneous petition is closed.

10.10.2025

Speaking/Non-speaking order

Index : Yes/No

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To

The Additional Sub-Court, Viridhachalam, Cuddalore.



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P.B.BALAJI.J,

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Pre-delivery order made in
Rev.Apln.No.160 of 2025
& CMP.No.22342 of 2025

10.10.2025