IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	**18.11.2025**
Pronounced on	**10.12.2025**

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.2906 of 2025

and C.M.P.Nos.24638 & 24641 of 2025

1.R.Gopinath

2.Sumanth Ramamurthi

3.G.Venkatramachandran ...Appellants

Vs.

1.G.R.Karthikeyan
2.R.Shantharam
3.M/s.Coimbatore Auto Sports and Transport Trust,
Rep. By its Managing Trustee Mr.G.R.Karthikeyan, No.14, Huzur Road, Coimbatore-641 018.
4.Naren Karthikeyan
5.Arjun Balu
6.Selvaraj ...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 104 of Civil Procedure Code, to set aside the order dated 12.06.2025 passed in I.A.No.2 of 2021 in OSCFR No.10337 on the file of the learned Principal District Judge, Coimbatore.

For Appellants : Mr. P.H.Arvindh Pandian, Senior Advocate
for Mr.Salai Varun Isai Azhagan and

Mr.C.Kaveen

For Respondents : Mr.P.K.Rajagopal
for Ms.R.Mithra
of M/s.Fox Mandal & Associates

JUDGMENT

The Civil Miscellaneous Appeal is preferred against order dated 12.06.2025 passed in I.A.No.2 of 2021 in OSCFR No.10337 on the file of the learned Principal District Judge, Coimbatore.

2.The appellants, as plaintiffs filed suit under Section 92 of the Civil Procedure Code for the following reliefs:

a. Declaring that the plaintiffs are the lifetime Managing Trustees of 'Coimbatore Auto Sports and Transport Trust.'

b. Granting an order of permanent injunction restraining the 1st defendant, his family members, agents, from in any way, in any manner swapping the properties of 'Coimbatore Auto Sports and Transports Trust.'

3.According to the plaintiffs, a trust under the Name and Style of 'Coimbatore Auto Sports and Transport Trust' was formed on 09.09.1987 for General and Public Utility and Charity and the same was registered the office of the 3rd defendant. The said Trust was formed by the father's of the plaintiffs and the defendants 1 & 2 respectively. It is specifically mentioned in the Trust deed, that the Trust is formed for the following purpose:

1.To promote motor sport and providing the necessary amenities,

2.To acquire land, build and maintain for the purpose of laying racing tracks and other connected infrastructure connected to automobiles and aircraft,

3.To help individual or institution which have objects similar to that of this trust,

4.To invest funds in banks,

5.To start and run educational institutions, Hospitals,

6.To provide scholarship to meritorious students,

7.To run and start hostels for poor and old people,

8.To finance medical treatment and give free medicines to poor patients etc.

4.The plaintiffs after the demise of their fathers, expressed their wishes to become the Managing Trustee to the defendants 1 & 2. It is further submitted that as per the said Deed of Trust, the five Managing Trustees shall individually nominate their individual successor to the office of the Trusteeship and the same can be evidenced by the letters sent by the plaintiffs to the defendants 1 & 2 on 11.07.2015. The 2nd defendant in his letter dated 07.11.2013 accepted the wish of the plaintiffs and recognized them as Managing Trustees of the said Trust on the demise of the said founder Trustees. While so, the 1st defendant after receipt of the said letters sent a reply on 24.07.2015 denying the rights of the plaintiffs. The 1st defendant is withholding all the title deeds, Management and unilaterally taking decisions on behalf of the said Trust, without the consent of other Trustees and attempting to swap the properties purchased in the name of the Trust. Hence, the suit.

5.On the other hand, the defendants 1 & 2 submits that the above suit was filed without adding the Trust as a party since the reliefs claimed are directly pertaining to and against the Trust. Hence, the suit is bad for necessary and proper parties. It is further submitted that the letter dated 07.11.2013 set to have given by the 2nd defendants was never acted upon, which is evident from the letters of the plaintiffs to the 1st defendant. It is further contended that as per clause 18 of the Deed of the Trust dated 09.09.1987, the Board of Trustees has to decide in the absence of the nomination or Will by the late Trustees and not by any individual Trustee. Further, the 2nd defendant himself has given up the letter dated 07.11.2013 by participating in the meeting of the Board of Trustees on 20.1.2020 and signed the resolution. Moreover, the claim of the plaintiffs was declined by the letter dated 24.07.2015 by the 1st defendant and the plaintiffs being well aware of the denial of their alleged right filed the petition to grant leave after lapse of six years. As per Article 137 of the Limitation Act fixes 3 years as period of limitation for any matter for which no period of limitation has been prescribed. Hence, the claim of the plaintiffs is also bared by limitation. Hence, prayed for dismissal of the suit.

6.The trial Court dismissed the suit on the ground that the suit will not lie under Section 92 of the Civil Procedure Code. Aggrieved by this, the present appeal is preferred by the plaintiffs.

7.The main prayer in the plaint was to declare that the plaintiffs are the life time managing Trustees of 'Coimbatore Auto Sports and

Transport Trust'. They further prayed for the relief of permanent injunction restraining the 1st defendant in any manner swapping the properties of the Trust.

8.The learned counsel appearing for the appellants/plaintiffs would submit that clause 4 of the Trust Deed Dated 09.09.1987 expressly provides for life time Trusteeship and the right of each founder Trustee to nominate his successor either during his life time or by testamentary instrument. Between 2008 and 2011, three founder Trustees passed away. The plaintiffs, who are the sons and nominated successors of the deceased Trustees wrote a letter to the Trust, informing that their respective predecessor had duly nominated them during their life time. The said nominations had also been attested and acknowledged by the other legal heirs. The Trust also accepted the nominations and it was a reaffirmed through communication dated 07.11.2013 issued by the 2nd defendant, the Managing Trustee. In 2015, when the plaintiffs sought the convening of a Trust meeting through their letter dated 22.06.2015, the 1st defendant sent a reply on 24.07.2015 denying the plaintiffs' status as Trustees and in complete derogation of the Trust Deed, unilaterally proceeded to alter the structure of the Trust in the year 2020. By a resolution dated 20.01.2020, the defendants have appointed new permanent Trustees and executed an amended Trust Deed on 27.02.2020 giving effect to such changes. Through this amendment, the son of the 1st defendant arrayed as the 4th defendant, was inducted as a permanent Trustee. Another family member and closed friend of the defendants 1 &

2 were also made as permanent Trustee. This sequence of action constitutes a clear and deliberate attempt at familial and dynastic usurpation of a Public Charitable Trust. The learned counsel would submit that, merely the suit is one that is sought in nature of a declaration to declare the plaintiffs as life time Trustees, it does not necessarily mean it is to vindicate personal rights. It is settled law that the dominant purpose of the suit in the light of the allegations in the plaint. To support his contention, he has relied upon the following judgment in the case of ***Swami Paramatmanand Saraswati & Anr V. Ramji Tripathi & Anr.,*** reported in ***(1974) 2 SCC 695*** in which it is held that:

> *11...... Where two or more persons interested in a Trust bring a suit supporting to be under Section 92, the question whether the suit is to vindicate the personal or individual right of a third person or to assert the right of the public must be decided after taking into account the dominant purpose of the suit in the light of the allegations in the plaint. If, on the allegations in the plaint, it is clear that the purpose of the suit was to vindicate the individual right of Krishnabodhashram to be the Shankaracharya, there is no reason to hold that the suit was brought to uphold the right of the beneficiaries of the Trust, merely because the suit was filed by two or more members of the public after obtaining the sanction of the Advocate General and claiming one or more of the reliefs specified in the section. There is no reason to think that whenever a*

suit is brought by two or more persons under Section 92, the suit is to vindicate the right of the public. As we said, it is the object or the purpose of the suit and not the reliefs that should decide whether it is one for vindicating the right of the public or the individual right of the plaintiffs or third persons."

9.He would further contend that the aforesaid dicta was applied by the Hon'ble Division Bench in two cases that are identical to the present facts of the case. In Mrs. Reegena and ors v. Jeppiaar Sheela and Ors (O.S.A. Nos. 115 and 250 of 2019), the Hon'ble Division Bench of this Court has held that,

> *"40. It is alleged that personal grievances of the first plaintiff are mentioned in the plaint. On a plain reading of the plaint, we could notice that the entire averments made therein cannot be said to be one made to wreak personal vendatta. Those averments are made in relation to the affairs of the functions of the Trust and the alleged mismanagement of the properties of the Trust. It is in that context certain averments were made against certain individual members of the Trusts. Therefore, on this ground, the plaintiffs cannot be prevented from instituting the suit. Even otherwise, the personal vendetta as alleged by the defendants, is a matter for trial. What is required for examination while granting leave is that whether a prima-facie case has been made out by the plaintiffs bringing out the breach of trust on the part of the defendants. Merely because the first plaintiff happens to be one of the daughters of the Founder-Trustee/Dr.Jeppiaar, it cannot be held that the entire suit is filed only to vindicate her personal rights. All the allegations in the plaint have to be decided only during trial, including the issue of misjoinder of parties, as to whether the plaintiffs 2 and 3 are really having locus-standi or cause of action for filing the suit. Even the plaint prayer with regard to the*

ancillary reliefs, is a matter for trial.

41. In order to grant leave, the plaint has to be read in its entirety and not in isolation. On reading of the plaint, we find that it discloses acts of breach of trust, mis-management, fraud by the Trustees, mal-administration, fabrication of documents, etc. More particularly, the plaintiffs have stated about leasing out of 109.95 acres of land in favour of Sathyabama Educational Trust in contravention of the covenants contained in the Trust deed. It is alleged that the defendants have obtained credit facilities to an extent of Rs.150 crores after apportioning the land belonging to Jeppiaar Educational Trust and the same was used for personal benefits

42. Further, the submissions and counter submissions are only to prove or disprove the case of the other. The genuineness or veracity of the defence raised, cannot be gone into in the present appeals. Any finding rendered in these appeals will have a bearing in the suit pending before the Original Side of this Court. A reading of the full plaint and its documents discloses a prima-facie case for breach of trust by defendants in paragraphs 10 to 14 and 19, and mis-management in paragraphs 16 to 18, fabrication of documents in paragraphs 14, 16 and 17, forgery in paragraphs 13, 14 and 16, collusion of defendant 6 to 10 in paragraphs 10 to 14, and also the mala-fide intention of the sixth defendant to take control over the

subject Trusts and the institutions, illegal entry into the Trust Board and expulsion of Trustees without following the prescribed procedures, etc. Having regard to the same, the grant of leave to sue, in our opinion, is justifiable.

43. Further, in the case on hand, the provisions and terms of both the Trusts are almost the same and both the Trusts are founded by Dr.Jeppiaar for the same purpose. Jeppiaar Educational Trust is a parent Trust and Sathyabama Educational Trust contains savings clause, as per which the provisions of the Jeppiaar Educational Trust were applied to Sathyabama

> *Educational Trust with regard to the procedures, alienation of Trust properties, Court permission, etc., and hence, a single suit is framed as provided under Order 2 Rule 3 CPC. We do not see any reason to hold that the plaint as filed, in respect of the affairs and management of the defendants 1 and 2 trust is not maintainable. The suit is maintainable as such and we see no reason to reject the submissions made to this effect. In this context, it is useful to refer the decision of this Court reported in 1996 (2) LW 364 (Kannan Adityan and 4 others Vs. Adityan and 6 others), wherein it was held that suit must be representative in character and not merely one for vindication of individual or personal rights of the plaintiff. The Court's duty is only to look into the allegations in the plaint and documents produced by the plaintiff only. Applying the above decision to this case, we are of the view that all the submissions made by the learned Senior Counsel/counsel for the defendants are only in the form of defence and prima-facie, the plaint discloses breach of trust by the defendants. We do not find any infirmity in the leave granted by the learned Single Judge, which was confirmed by the learned Single Judge in the leave revocation application. Merely because ancillary reliefs such as declaration of Resolutions as null and void, are asked for, it would not render the Scheme suit for main reliefs of framing schemes, removal of illegally inducted Trustees, etc., as not maintainable."*

In the present case, the allegation of personal vendetta, as suggested by the Defendants, is itself a matter for trial, as held by the Hon'ble Division Bench,and therefore cannot form a basis to deny leave. What is required at the stage of considering an application under Section 92 CPC is only to ascertain whether the Plaintiffs have made out a prima facie case disclosing breach of trust or mismanagement on the part of the Defendants. Merely because the first Plaintiff happens to be one of the sons of the Founder Trustees, it cannot be concluded that the suit has been instituted solely to vindicate personal rights. The averments in the plaint, coupled with the communications exchanged earlier, clearly demonstrate that this is a case where leave ought to have been granted.

He would further submit that, in ***Thatha Sampath Kumar and anr***

v. Sri Vupputur Alwar Chetty's Charities 2019 SCC Online Mad 2294, another *Division bench of this Court held that:*

"34. In the instant case, as observed earlier, there are serious differences amongst the trustees, for which, suits have been filed. Section 92 of CPC is a complete code by itself in respect of the suits based upon an alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature. In order to attract the application of the Section, the following four conditions are necessary, viz.,

(a) there must be a trust, express or constructive, for public purposes of a charitable or religious nature;

(b) the plaint must allege a breach of trust or necessity for direction as to administration of that trust;

(c) the suit must be in the interests of the public, i.e., it must be brought in a representative capacity for the benefit of the public and not to enforce individual rights; and

(d) the relief claimed should be one of the reliefs set out in the section.

43. This being the case, the contention raised by the learned counsel for the Appellants that only to harass the first respondent/first plaintiff trust and its trustees, the suit has been instituted by the respondents 1 to 4 cannot be accepted by this Court, at the stage of granting leave under Section 92 of CPC. Whether the allegation made by the Appellants that the suit has been filed only to harass them and the Trust is true or not can be adjudicated only after trial and not at the stage of granting leave to the respondents 2 to 4 to institute a suit under Section 92 of CPC as interested persons of the subject public trust.

44. This Court while deciding the leave application under Section 92 CPC will have to only look into the plaint averments for grant of leave to interested persons to institute a suit under Section 92 CPC. It is settled law as rightly pointed out by the learned Senior Counsel for the respondent that leave can be granted under Section 92 even without notice to the trust and its trustees. Therefore, it is sufficient if the applicants satisfies based on the plaint averments that they are interested parties in the public trust.

45. As suits under Section 92 CPC are filed against public trust, Courts need not expect undisputed evidence to come to the conclusion that the parties seeking leave are interested persons entitled to file a suit under Section 92 CPC. The relief sought for by *the respondents 1 to 4 in the plaint filed under Section 92 CPC are well within the scope of the said section as the cause of action for filing the suit is only due to the alleged breach of the first respondent/first plaintiff trust. The relief for removal of a trustee on account of breach of trust is also permissible as per Section 92(a) of CPC. Prima facie as seen from the plaint averments, we cannot come to the conclusion that only to ventilate private disputes, the suit under Section 92 CPC has been filed. Whenever the Advocate General or two or more persons interested in trust alleges breach of public trust on account of any of the irregularities mentioned under Section 92 CPC. either the Advocate General or two or more persons interested in the trust shall be entitled to file a suit under Section 92 CPC.*

Thus, it leaves no room for doubt that in order to determine whether the suit and not at the stage of considering leave under Section 92 of the CPC. Further. has been filed only to harass is true or not, can be determined only after trial. as suits under Section 92 of the CPC are instituted in respect of public trusts, the Court is NOT expected to insist upon undisputed evidence to conclude that the persons seeking leave are entitled to institute the suit. Be that as it may, the Appellants herein have demonstrated with undisputed proof (The swapping of properties and appointment of new trustees)."

10.Thus, he would submit that in the present case, the 2nd defendant, acting in his capacity as Managing Trustee, expressly recognized the plaintiffs as Managing Trustees on account of the demise of the founder Trustees, as is evident from the letter acknowledging the nomination. Such recognition and acceptance being based on admission and acquiescence, give rise to a valid factual foundation in favour of the plaintiffs and the same can only be adjudicated upon in a full-fledged trial, and the same cannot be brushed aside at the threshold by revoking the leave. He would further submit that the present dispute is one that is squarely covered in Section 92 of the Code of Civil Procedure, which makes it clear that in cases of any alleged breach of an express of constructive Trust created for public charitable or religious purposes, or where the direction of the Court is considered necessary for the proper administration of such Trust, a suit may instituted seeking, inter alia, the reliefs enumerated under clauses (a) to (h) under Section 92 of CPC. He would further submit that the relief sought in the present suit, namely a declaration that the plaintiffs are lifetime Trustees, squarely falls within clause (b) of Section 92, as it pertains to the appointment of new Trustees. It is further contended that the relief of permanent injunction sought in the plaint is maintainable under Clause (h), as the pleadings and documents placed before the Court prima facie demonstrate that the Trust is suffering from mal-administration and actions contrary to the objects of the Trust, thereby necessitating the Courts intervention to grant such relief. Therefore, it is incorrect on the part of the defendants to contend that the plaintiffs are espousing their right to be appointed simply by the virtue of the death of their father like an inheritance. Further, the interpretation of the Clauses in the Trust Deed and the adjudication pertaining to the validity of their nomination are purely matter for trial. The plaintiffs have clearly demonstrated in the plaint above their connection to Motor Sports and they are interested in promoting the sport. Hence, the contentions putforth by the defendants that the plaintiffs have not pleaded about their connection to Motor Sports or their interest in promoting the spot. Therefore, prays for setting aside the order passed by the learned District Judge, by allowing the Civil Miscellaneous Appeal.

11.On the other hand, the learned counsel appearing for the respondents/defendants would submit that, the following requirements are necessary as pre-conditions for invocation of Section 92 of CPC.

a. The suit must relate to a public charitable or religious Trust for public purposes.

b. breach of express or constructive Trust must be alleged in the plaint in such suit.

c. Alternatively, the plaint must contain allegations explaining the necessity for Court directions to administer the trust.

d. the plaint must be filed by two or more persons having an interest in the Trust.

e. The reliefs sought in the plaint should be one of the eight reliefs enumerated in clauses (a) to (h) of the provision, the relief mentioned in clause (h) has to be ascertained by reading that clause in *ejusdem generis* with the foregoing clauses (a) to (g)

12.Only if all the above ingredients are available in a plaint, such plaint will be within the purview and scope of Section 92 of CPC. Otherwise, the suit will fall outside Section 92 of CPC and will have to be filed as an ordinary suit. In other words, even if one of the ingredient is missing in the plaint, the suit cannot be brought under Section 92 CPC and leave cannot be granted.

13.Thus, the learned counsel would submit that in granting or refusing leave to sue under Section 92, the allegations in the plaint alone should be looked into in the first instance to see whether the suit falls under the ambit of Section 92 of CPC and that allegations of breach of Trust must be contained with particulars and details. To support his contention, he has relied upon the following judgments in the case of ***Swami Paramatmanand Saraswati & Anr V. Ramji Tripathi & Anr.,*** reported in ***(1974) 2 SCC 695, S.Guhan and Others. Vs. Rukmini Devi Arundale and Others*** reported in ***(1987)100 LW 182*** and ***Vidyodaya Trust vs. Mohan Prasad R*** and others reported in ***(2008) 4 SCC 115.***

14.His further contention is that the object behind Section 92 of Code of Civil Procedure is to protect Public Trust from being subjected to harassment by frivolous suits filed against them. To support his contention, he has relied upon the judgment in ***Chairman Madappa Vs. Mahanthadevaru and others*** reported in ***AIR 1966 SC 878*** and ***V.Manonmani (Trustee) and Others vs. Madhavi @ Malathi Serin and Others*** reported in ***2023 (1) LW 697.***

15.He would further contend that, a suit in order to come within the scope and purview of Section 92 CPC, should be one for vindication of public rights and not for ventilating personal grievances of the plaintiffs or for declaration of their individual rights. The expression in Section 92 of CPC 'persons having an interest in the Trust' means that, the interest should be real substantive and existing interest and not a mere remote, fictitious or contingent one. To support his contention, he has relied upon the judgment in ***P.Sivagurunadha Pillai and Another Vs.P.Mani Pillai (died) and Others*** reported in ***1984 SCC Online Mad 84.***

16.He would further contend that, the public Trust concerned is a necessary party to the suit. Hence, the suit is bared for non-joinder of necessary party. It is also contended that the suit is barred by limitation.

17.Heard on both sides, records perused.

18.Perusing the dispute and its legal trajectory, the object and purpose behind Section 92 of the CPC has to be analyzed at first. Obtaining a 'grant of leave' from the Court before the suit can be proceeded with, acts as a procedural and legislative safeguard in order to prevent Public Trust from being subjected to undue harassment through frivolous suits being filed against them and also to obviate a situation that would cause a further wastage of resources which can otherwise be put towards public charitable or religious aims. A suit under this provision can be termed as a 'representative suit of a special nature' since the object behind the enactment of this provision is the protection of public rights in the public Trust. Therefore, the parties filing a suit by invoking this section are considered to be representatives of the public. Hence, the grant of leave under Section 92 of the CPC serves as a procedure safeguard, ensuring that public charitable Trust are protected from malafide suits that may have the consequence of impeding their operations. At this stage, however, the Court neither adjudicate upon the merits of the dispute nor confess any substantive rights upon the parties; what is established is merely the maintainability of the suit which is sought to be initiated by the plaintiffs.

19.The learned counsel for the appellants/plaintiffs would contend that a perusal of Section 92 of the Code of Civil Procedure makes it clear that in cases of any alleged breach of an express or constructive Trust created for public charitable or religious purposes, or where the direction of the Court is considered necessary for the proper administration of such

Trust, a suit may be instituted seeking, *inter alia*, the reliefs enumerated under clauses (a) to (h) of Section 92 CPC. He would submit that the relief sought in the present suit, namely a declaration that the plaintiffs are lifetime trustees, squarely falls within Clause (b) of Section 92, as it pertains to the appointment of new Trustees. Even otherwise, the relief sought would be maintainable under Clause (h) as the pleadings and documents placed before the Court prima facie demonstrate that the Trust is suffering from mal-administration and actions contrary to the objects of the Trust, thereby necessitating the Courts intervention to grant such further or other reliefs as the nature of the case may require.

20.At the outset, it would be relevant to extract the provision of Section 92 of the Code of Civil Procedure:

> *"92. Public charities.-(1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the 4 [leave of the Court,] may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the State Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree :-*

(a) removing any trustee;

(b) appointing a new trustee;

(c) vesting any property in a trustee; 5

[(cc) directing a trustee who has been removed or a person who has ceased to be a trustee, to deliver possession of any trust property in his possession to the person entitled to the possession of such property];

(d) directing accounts and inquiries;

(e) declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;

(f) authorizing the whole or any part of the trust property to be let, sold, mortgaged or exchanged;

(g) settling a scheme; or

(h) granting such further or other relief as the nature of the case may require."

21.Coming to the conditions to be ful-filled for the applicability of Section 92 of the CPC. The Hon'ble Supreme Court in ***Ashok Kumar Gupta Vs. Sitalaxmi Sahuwala Medical Trust*** reported in ***(2020) 4 SCC 321*** has laid down the following conditions:

a.The Trust in question must be created for public purposes of a charitable or religious nature.

b. There must exist a breach of Trust or a direction of the Court must be necessary for the administration of the Trust.

c. The relief claimed must be one or other of the reliefs as enumerated under Section 92 (1) of the CPC.

22.Therefore, in order to establish that a suit is not maintainable under Section 92, it would be sufficient prove that any one of the conditions enumerated above has not been met, however, in order to assert its maintainability, all the aforesaid conditions need to be satisfied.

23.In the present case, there is no dispute that the Trust in question is created for public purposes of a charitable nature. Surprisingly, the Trust is not arrayed as a party in this appeal. The whole dispute relates to the Trust and the properties of the Trust. Therefore, the Trust is not only a proper party but a necessary party.

24.The next condition is that there must be breach of such Trust or that the direction of the Court is necessary for the administration of the Trust. In the present case, there is no allegations in the plaint that there was a breach of Trust or that the direction of the Court is necessary for the administration of the Trust. Coming on to the allegations of siphoning of the properties of the Trust as alleged by the plaintiffs, these allegations are found to have no substance. It is clearly demonstrated on the side of the respondents/defendants that the alleged exchange of property was done for the benefit of the Trust. Therefore, the arguments on behalf of the appellants/plaintiffs based on clause (f) of Section 92 (1) have the effect of circumscribing the powers of Trustees or Managers to carry on ordinary administration of Trust property and to deal with it in such manner as they think best for the benefit of the Trust and if necessary even to let, sell, mortgage or exchange it. Therefore, the said clause is not meant to limit in any way the power of trustees or Managers to manage the Trust property to the best advantage of the Trust.

25.It is, therefore, clear that if the allegation of breach of Trust is not substantiated or that the plaintiffs have not made out a case for any direction by the Court for proper administration of the Trust, the very foundation of a suit under the section would fail. Even if all other ingredients of a suit under Section 92 are made out, it is clear that the plaintiffs are not suing to vindicate the right of the public Trust but are seeking a declaration of their individual or personal rights, then the suit would be outside the scope of Section 92. In the present case, the plaintiffs seeks for a declaratory relief to declare them as lifetime managing Trustees of 'Coimbatore Auto Sports and Transport Trusts'. After taking into account the dominant purpose of the suit in the light of the allegations in the plaint, it is clear that the purpose of the suit was to vindicate the individual rights of the plaintiffs. There is no reason to hold that the suit was brought to uphold the right of the beneficiaries of the Trust. While according sanction under Section 92 CPC, the Court has to look into the plaint allegations only for its satisfaction, to grant or to refuse to grant the leave. In the case on hand, the averments in the plaint and the reliefs claimed makes it clear that the plaintiffs are not suing to vindicate the rights of the public and that the suit has not been filed in the representative capacity. The plaintiffs have filed the above suit claiming reliefs and as individuals. Moreover, the discretionary reliefs under Section 92 CPC cannot be granted when the plaintiffs have no genuine interest or intension to protect the public right of the beneficiaries. The plaint averments would reveal that the plaintiffs are highlighting only their personal grievances. There is no averment in the plaint that the plaintiffs are suing in public interest. As such the suit falls outside the scope and ambit of Section 92 (1) of CPC. Though, it was argued on the side of the appellants/plaintiffs that the Trust had been mismanaged by the defendants/respondents, the same is not established. Neither in the plaint nor in the documents filed on the side of the appellants/plaintiffs filed along with the plaint contains any material to show such instance of mismanagement. Moreover, it is submitted on the side of the respondents/defendants that, the exchange deeds were executed solely to secure proper road access to the Trust property, for the benefit of the Trust and therefore, the transactions were bonafide. This fact is not rebutted on the side of the appellants/plaintiffs.

26.Furthermore, the claim of the appellants/plaintiffs to recognize them as Managing Trustees was declined by the 1st defendant through the letter dated 24.07.2015. The suit is filed in the year 2021. Moreover, it is a suit for declaration of the status of the plaintiffs. Therefore, it is governed by Article 58 of the Limitation Act. While so, the period of limitation prescribed therein is three years, starting from the date on which the right to sue first accrues. The admitted case of the plaintiffs is that they were appointed as Managing Trustees on 07.11.2013 and they were not permitted to as such by the 1st defendant and that they sent letters to the defendants on 11.07.2015 which was received by the defendant. On 24.07.2015 the defendants have denied the rights of the plaintiffs. Therefore, the time under Article 58 started to run from the date on which the cause of action first accrued, and as such, the limitation for filing the suit expired on 23.07.2018. The present plaint was filed in the year 2021, admittedly six years after the cause of action first accrued. Therefore, the suit is clearly barred by limitation.

27.The trial Court, after reading the allegations in the plaint, rightly came to the conclusion that the breach of Trust has not been made out, which warrants any interference by this Court.

28.Considering the above, this Court is of the view that the suit, prima facie is not maintainable.

In the result, this civil miscellaneous appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.12.2025

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
vsn

To
1. The Principal District Judge, Coimbatore.
2. The Section Officer, VR Section, High Court, Madras.

K.GOVINDARAJAN THILAKAVADI,J

vsn

Pre delivery Judgment in

C.M.A.No.2906 of 2025

and C.M.P.Nos.24638 & 24641 of 2025

10.12.2025