



C.R.P(NPD)(MD)No.158 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(NPD)(MD)No.158 of 2021
and C.M.P.(MD)No.962 of 2021

1.M.Thangaraj Asari

2.L.K.Pitchaimani Asari

... Petitioners

Vs

1.P.Venkatesan Asari

2.D.Muthuvel Asari

3.R.Raja ASari

4.G.Dharmaraj Asari

5.M.Gurusamy Asari

6.T.Ganesan Asari

7.G.Sakthivel Asari

R.Murugesan Asari (Died)

8.A.Ayyadurai Asari

9.G.Muniasamy Asari

... Respondents

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decreetal order dated 19.02.2020 passed in



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E.A.No.1 of 2019 in I.A.No.187 of 2012 in O.S.No.289 of 1978 on the file of the Principal Sub Court, Madurai.

For Petitioners : Mr.F.X.Eugene

For Respondents : Mr.J.Lawrance for R1 to R3
Mr.B.Arun for R4 to R6, R8 & R9
No Appearance for R7

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 19.02.2020 passed in E.A.No.1 of 2019 in I.A.No.187 of 2012 in O.S.No.289 of 1978 on the file of the Principal Sub Court, Madurai.

2. The facts in brief is that the suit in O.S.No.289 of 1978 was filed by one Somu Asari and two others representing themselves as the representatives of Madurai Keelavasal Viswakarama Manu Vaguppu Uravinmuraiyalargal Community, against one Gurusamy and four others for framing a scheme and for injunction in respect of the above mentioned Uravinmuraiyalargal Community, before the Sub Court, Madurai. By the judgment and decree dated 23.02.1980, a scheme was



framed. We are concern about here the scheme with regard to the election of the office bearers which is extracted for better appreciation hereunder:

"6. The first body of administrators of the Trust from and after the date of the decree in O.S.No.289 of 1979 shall be elected from the community people by an Election Officer appointed from the Senior Advocates in the Madurai Bar by the Court in O.S.No.289 of 1978 to conduct the said election in the said community observing all due formalities of an election according to law.

7. The General Body of the community shall be convened before two months of the expiry of the term of office of the Board of Trustees to select three persons who are educated and senior members in the community for conducting the election of the Board of Trustees. The said three elected persons will conduct the election by calling for nomination and after withdrawal will conduct election by secret ballot in case of contest by convening the General Body of the Community.

8.The Election of Board of Trustees must be finished one month prior to the expiry of the term of Board of Trustees. That if the election of the Board of Trustees is not conducted in the abovesaid manner then two or more members of the community can move the Court int he



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execution side for conduct of the election of the Board of Trustees."

3. The duties and responsibilities were prescribed under the scheme. By invoking the scheme, the respondent herein, as third parties, filed E.A.No.1 of 2019 to appoint an election officer to conduct the election in the community by observing the formalities of the election, as per the scheme, by invoking Clause 32 for the relief, stating that the respondents 1 to 9 are falsely posing themselves as managing trustees; other trustees of Viswakarma Trust have not conducted the election and they have not performed the affairs of the trust in a proper manner; they mismanaged and misappropriated the properties and the money of the Trust.

4. That was resisted by the revision petitioner herein by filing counter stating that neither the petitioner nor the respondents 3 to 9 are the members of the community or Trust. They are not the residence of the Keelavasal area. Apart from that they objected to the very framing of the scheme by the Court stating that the scheme was not accepted by the members of Keelavasal Viswakarma Manuvaguppu Uravinmuraiyargal



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Community, Madurai. The community people are not interested in implementing the scheme. There is no necessity to conduct election. Respondents 3 to 9 supported the case of the petitioners. After considering the objection made by the revision petitioners, the trial Court by the order dated 19.02.2020 allowed the petition by appointing one Mr.N.R.B.Jawaharlal as election officer to conduct the election of the Uravinmuraiyalargal Community. Against which this Civil Revision Petition is preferred.

5. Heard both sides.

6. A detailed written submission was filed by the revision petitioners contending the very same ground made by them in the main suit and as well as in the counter filed by them in the present petition.

7. The main ground of their objection is that the execution petitioners have no locus standii to file the petition. Apart from that they have also stated that the plaintiffs in the main suit have also no *locus standi*. Because of the non implementation of the scheme for a very long



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time, the decree itself has become non executable. They are also relying upon a judgment in O.S.No.533/2004 filed by them and the appeal judgment. It is admitted by themselves that the suit as well as the appeal were dismissed.

8. But this ground of objections raised by the revision petitioners cannot be taken into account at this stage at all. They have lost the case at the time of trial. Second attempt was made by filing suit in O.S.No. 533 of 2004 again failed. So they cannot take up the very same ground in this petition. I find absolutely no ground made out by this revision petitioner by pointing out these issues. Rightly the trial Court rejected the objection made by the revision petitioner on that account.

9. According to the revision petitioners, other procedural mistake was also committed by the trial Court in converting I.A.No.187 of 2012 to an execution application. The nomenclature of the petition will not have any bearing upon the prayer sought for in this petition. After disposal of the main suit, filing an interlocutory application in the suit will not arise. So rightly the trial Court converted the same as an



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execution application which cannot be found fault. Another curious objection made by the revision petitioners is that by framing the scheme, the trial Court has not mandated the Uravinmuraiyalargal to conduct election. But this ground is absolutely fallacious. Reading of the scheme passed by the trial Court clearly indicates that in the event of mismanagement of affairs of the Trust, right was conferred upon two or more members of the community to move the Court for appropriate relief. Here this petition is filed on the ground that respondents 1 and 2 who are the revision petitioners herein and others are acting against the interest of the Uravinmuraiyalargal Community Trust. So the *locus standi* or the right of the respondents 1 and 2 herein cannot be disputed by the revision petitioners.

10. The contention that has been raised by the revision petitioners in the written argument as mentioned above is nothing but the repetition of their written statement in the main suit and the counter filed by them in this impugned petition. Rightly the trial Court negated the contention raised by the revision petitioners and ordered election. When mismanagement of the affairs of the trust is the ground for the petition, I



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am of the considered view that no interference is called for by this Court in the order passed by the trial Court. The order may be executed by the Commissioner as expeditiously as possible.

11. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

23.01.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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To

- 1.The Principal Sub Court, Madurai.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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