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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 21.01.2025

PRONOUNCED ON: .01.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)Nos.1697 and 1924 of 2019

and

C.M.P.(MD)No.9813 of 2019

C.R.P.(MD)No.1697 of 2019:-

1.Imayam Trust,
represented by its Chairman,
P.Periannan, Trichy District.

2.P.Periannan,
Chairman, Imayam Trust, Trichy District.

3.P.Reesa,
Trustee, Imayam Trust, Trichy District.

4.P.Sivakumar,
Vice Chairman, Imayam Trust, Trichy District.

... Petitioners

VS.

1.D.Balakumar

2.P.Natarajan

3.A.Andy,
Vice Chairman, Imayam Trust, Trichy District.

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4.D.Prabhu,
Treasurer, Imayam Trust, Trichy District.

5.A.Nagammal,
Trustee, Imayam Trust, Trichy District.

6.A.Malliga,
Trustee, Imayam Trust, Trichy District.

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 22.08.2019 made in I.A.No.5 of 2019 in O.S.No.170 of 2013 on the file of the Principal District Court, Tiruchirapalli.

For Petitioners	:Mr.V.Raghavachari Senior Counsel for Mr.Raguvaran Gopalan
For R1 and R2	:Mr.H.Arumugam for M/s.King and Partridge
For R3, R5 and R6:	No appearance

C.R.P.(MD)No.1924 of 2019:-

1.D.Balakumar
2.P.Natarajan

... Petitioners

vs.

1.Imayam Trust,
represented by its Chairman,
P.Periannan, Trichy District.



2.P.Periannan,
Chairman, Imayam Trust, Trichy District.

3.A.Andy
Secretary, Imayam Trust, Trichy District.

4.D.Prabhu
Treasurer, Imayam Trust, Trichy District.

5.A.Nagammal
Trustee, Imayam Trust, Trichy District.

6.A.Malliga,
Trustee, Imayam Trust, Trichy District.

7.P.Reesa,
Trustee, Imayam Trust, Trichy District.

8.P.Sivakukmar,
Vice Chairman Imayam Trust, Trichy District.

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 18.07.2019 made in I.A.No.3 of 2019 in O.S.No.170 of 2013 on the file of the Principal District Court, Tiruchirapalli.

For Petitioners	:Mr.H.Arumugam for M/s.King and Partridge
For R1, R2, R7 and R8	:Mr.V.Raghavachari Senior Counsel for Mr.Raguvaran Gopalan
For R3 to R6	:No appearance



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COMMON ORDER

C.R.P(MD)No.1697 of 2019 has been filed challenging the impugned order passed by the learend Principal District Judge, Trichy, in I.A.No.5 of 2019 in O.S.No.170 of 2013, dated 22.08.2019.

2.C.R.P(MD)No.1924 of 2019 has been filed challenging the impugned order passed by the learend Principal District Judge, Trichy, in I.A.No.3 of 2019 in O.S.No.170 of 2013, dated 18.07.2019.

3.As the issues are one and the same and parties are one and the same, these Civil Revision Petitions have been disposed of by way of this common order.

4.The Revision Petitioners in C.R.P.(MD)No.1697 of 2019 are the defendants in the suit in O.S.No.170 of 2013. Originally, the respondents 1 and 2, as plaintiffs, have filed a suit for framing a scheme providing for a better administration of the first defendant Trust and to declare the defendants 2 to 8 are disqualified and ineligible to hold the post of Chairman, Vice-Chairman,



Secretary, Treasurer and Trustees and removing the defendants 2 to 8 from the Trusteeship of the first defendant Trust and for appointing an Administrator and for a direction to hand over all accounts to the Administrator and also permanent injunction restraining the defendants 2 to 8 from functioning as Chairman, Vice-Chairman, Secretary, Treasurer and Trustees The above suit was filed on 14.08.2013.

5.The defendants have filed their written statement denying the allegations made by the plaintiffs in the suit.

6.During the progress of the trial, the plaintiffs have filed a petition in I.A.No.3 of 2019 under Rule 76 of Civil Rules of Practice seeking orders to issue summons to produce documents mentioned in the petition.

7.The trial Court while dismissing the claim made by the plaintiffs had observed that the plaintiffs have not raised any specific allegations in the plaint and has now filed the above petition and held as follows:

“It is settled law that the issuance of summons to witnesses is not automatic and the party who seeks such a prayer must



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reveal the purpose for which the witnesses are proposed to be summoned and in cases, objections are raised, the Court is duty bound to consider the same. As rightly contended by the respondent side, the petitioner cannot seek any blanket orders directing the officials to produce the particulars or records for longer periods. Considering the above, this Court is of the view, the petitioners have not shown any valid or acceptable reason or ground to summon the witness for production of documents. Hence, this Court concludes the above petition is devoid of merits and the petitioners are not entitled to get the relief claimed and the above point is answered accordingly.”

8. Aggrieved by the said order, C.R.P(MD)No.1924 of 2019 has been filed by the plaintiffs in the suit.

9. The plaintiffs have also filed an application in I.A.No.5 of 2019 under Order XI Rule 14 r/w Section 151 CPC asking for production of following documents into the Court as required in Form-5 of Appendix-C in CPC:

*“Documents sought to be produced
1. The account numbers and the Name of the Bank of the following institutions:*

- 1.1. Imayam Trust*
- 1.2. Imayam Arts & Science College*
- 1.3. Imayam B.Ed College*
- 1.4. Idhayam B.Ed College*
- 1.5. Imayam Catering College*
- 1.6. Imayam Teacher Training College*
- 1.7. Imayam Polytechnic College*



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- 1.8. *Imayam Engineering College*
- 1.9. *Imayam College of Information and Technology*
- 1.10. *Imayam Agricultural College*
2. *Furnish the Details of Payment made through cheques to private persons from the account of the above institutions?*
3. *State of accounts of the above during period 2005 to 2013?*
4. *Amounts in the fixed deposits for the respective college?*
5. *The particulars of the loan raised on the above deposits during period 2005 to 2013?*
6. *The counter-foil of the cheque books of the accounts of the above institutions?*
7. *The extent of lands required for each institutions and agriculture institutions as per the norms prescribed by the competent authorities.*
8. *The particulars of date of purchase of lands and the year of starting of institution?*
9. *This extent of land required for each institution.*
10. *Particulars of No.Of employees employed during the period 2005 to 2013.*
11. *Copies of affidavits submitted to AICTE and NCTE / SRCNCTE regarding deposits and lands.*
12. *Copy of approved building plan of the local authority for each institution.*
13. *The certificate issued by the RDO / Tahsildar for lands used certificate for the each institution.*
14. *The particulars of students (SC & ST) studying during the period 2005 to 2008 Arts & Science College and catering college. The amount of Scholarship granted by the State Government to the students in the above colleges.*
15. *The particulars of students (SC/ST) studying during the period 2011 to 2013 in polytechnic.*
16. *The details of students got aid from THADCO during the period 2004 to 2013.*
17. *The particulars and accounts showing the donors and the documents from the general public.*
18. *All Trust Resolutions copies. ”*



10.The defendants 3, 5 and 6 have filed their objection to the notice given and contended, that the documents would be produced at the appropriate time and certain documents cannot be furnished, as those details are related to bank accounts, income tax returns and for certain documents, they have submitted that, those documents are not available with them.

11.The trial Court had allowed the said application made by the plaintiffs. Aggrieved by the said order, the C.R.P.(MD)No.1697 of 2019 has been filed by the defendants.

12.Admittedly, the plaintiffs and the defendants are before this Court being aggrieved by the order passed in I.A.Nos.3 and 5 of 2019.

13.Heard Mr.V.Raghavachari, learned Senior Counsel appearing for the Revision Petitioners in C.R.P(MD)No.1697 of 2019 and the respondents 1, 2, 7 and 8 in C.R.P(MD)No.1924 of 2019 and Mr.H.Arumugam, learned Counsel appearing for the the petitioners in C.R.P(MD)No.1924 of 2019 and respondents 1 and 2 in C.R.P(MD)No.1697 of 2019.



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14.Mr.V.Raghavachari, learned Senior Counsel submitted that the application made in I.A.No.3 of 2019 and I.A.No.5 of 2019 are one and the same. In I.A.No.3 of 2019, the plaintiffs have seeking a direction to issue summons to produce the documents mentioned in the petition, whereas, in I.A.No.5 of 2019, the plaintiffs have sought for production of documents mentioned in the petition.

15.The learned Senior Counsel has raised the following points for consideration of this Court:

- (1)The suit instituted under Section 92 of CPC is not maintainable;
- (2)The application filed in I.A.No.3 of 2019 was dismissed, *per contra*, the application filed in I.A.No.5 of 2019, had been allowed, which is a verbatim claim made in I.A.No.3 of 2019;
- (3)The trial Court having applied its mind in I.A.No.3 of 2019 had taken a contrary view in I.A.No.5 of 2019 and it clearly shows that the trial Court has not understood the claim made by the plaintiffs.
- (4)I.A.No.3 of 2019 is an application seeking a direction to issue notice to the defendants by the plaintiffs asking for certain documents, in which the



defendants have given their reply and having satisfied with the reply, the trial Court had dismissed the application filed in I.A.No.3 of 2019 and had given a well considered reasoning and on the other hand, in I.A.No.5 of 2019, the trial Court had allowed the application, which is contrary to the order passed in I.A.No.3 of 2019.

16.The learned Senior Counsel further submitted that the plaintiffs did not disclose any averments in the plaint calling for the intervention of the Court to direct the defendants to produce documents and allowing the application in I.A.No.5 of 2019 is absolutely without any jurisdiction and non application of mind. The learned Senior Counsel further contended that as per Order XI Rule 14 CPC, with respect to a discovery and inspection could be done only before the commencement of the trial and whereas, the trial Court without understanding the provisions of Order XI Rule 14 CPC, had directed the stage, where such an order could be passed. The learned Counsel further contended that the reasoning given by the trial Court that such an application could be made only before the trial is commenced and even before the issues are framed, whereas, the claim made by the plaintiff is contrary to Order XI Rule 14 CPC. The learned Senior Counsel by



drawing the attention of this Court to Form-VII to Appendix-C in CPC, submitted that an application has to be made and the plaintiff has not complied with the provisions of the Form-VII to Appendix-C in CPC and therefore, the order passed by the trial Court in I.A.No.5 of 2019 is contrary to the provisions of CPC and such a procedure cannot be allowed.

17.Mr.H.Arumugam, learned Counsel appearing for the petitioners in C.R.P.(MD)No.1924 of 2019 submitted that in paragraph 10 of the plaint, the plaintiffs have narrated the entire facts with regard to the illegal activities of the second and third defendants in the capacity as Chairman and Secretary of the first defendant Trust in collusion with the other defendants and had cited 15 points for consideration before the trial Court and pleaded that the plaintiff had made several allegations with regard to the mismanagement, maladministration and abuse of office and by alleging several irregularities, the suit was filed with a prayer to frame a scheme for better administration of the first defendant trust.

18.In support of his contention, the learned Counsel had relied upon the following judgments:



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(1)The Hon'ble Supreme Court in the case reported in (1972) 2 SCC 427 between ***Shri M.L.Sethi vs Shri R.P.Kapur***, had emphasized the importance of ensuring that parties are given a fair opportunity to present their case before the Court and held as follows:

“9.Nor do we think that the High Court was right in holding that the documents ordered to be discovered were not relevant to the inquiry. The documents sought to be discovered need not be admissible in evidence in the enquiry or proceedings. It is sufficient if the documents would be relevant for the purpose of throwing light on the matter in controversy. Every document which will throw any light on the case is a document relating to a matter in dispute in the proceedings, though it might not be admissible in evidence. In other words, a document might be inadmissible in evidence yet it may contain information which may either directly or indirectly enable the party seeking discovery either to advance his case or damage the adversary's case or which may lead to a trial of enquiry which may have either of these two consequences. The word “document” in this context includes anything that is written or printed, no matter what the material may be upon which the writing or printing is inserted or imprinted. We think that the documents of which the discovery was sought, would throw light on the means of the respondent to pay court-fee and hence relevant.”

(2)The Hon'ble Supreme Court in the case reported in (2011) 15 SCC 323 between ***Trambakeshwar Devasthan Trust and another vs President, Purohit Sangh and others***, had observed as follows:



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*“14. The law is however well settled that the interest of the public is paramount in any religious public trust. The Division Bench of the High Court in **Fakir Mohamed Abdul Razak v. Charity Commr.** [AIR 1976 Bom 304] has held in para 35 : (AIR p. 312)*

“35. It is well settled that in suits like the suits for settling the Scheme, the court has a duty once it is found that it is a Trust for public purposes, to consider what is best in the interests of public. Settling a scheme is one of the most important relieves relating to the administration of public trust. The primary duty of the court is to consider the interest of the public for whose benefit the trust has been created.”

15. To ensure that the interest of the public is protected and safeguarded in all the decisions of the Board of Trustees, we hold that, instead of two persons, four persons will be appointed by the Charity Commissioner from amongst male/female, adult Hindu devotees preferably residents of Trimbakeshwar, who will represent the public in the Board of Trustees. This will ensure that in a composition of maximum of nine members, four members at least will represent the public or the devotees of the Temple and the decisions of the Board of Trustees will be in the larger interest of the Temple and the public or the devotees.”

(3) This Court in the case reported in **2002 (2) CTC 527** between **Rajagopal vs Balachandran and others**, had held as follows:

*“19. In the light of the above observations, I direct the District Court to call for a meeting of the Board of Trustees to elect the Chairman Trustee. It is open to the trustees to agree to be Chairman Trustees in turn; or they may elect the Chairman Trustee for which purpose the first respondent shall not exercise the casting vote; or as held in **Raja v. Kumaraswami Raja, 1955 (68) L.W. 244**, the Scheme Judge can even increase the strength of Board of Trustees if he is satisfied that interest of the Trust will be served by that. Above all, Courts must remember that they are bound to*



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exercise a vigilant control over the functioning of the Trust. The welfare of the Trust is the supreme consideration.”

(4) This Court in the case reported in **2018 (2) CTC 721** between **A.R.Rengaraj @ A.R.R.Raju and others vs Aranmanai Raman Chettiar Chathiram and others**, had held as follows:

“55. In respect of a public trust concerned, who all are having concern over the public trust are to be treated as necessary parties and if the matter is examined in that perspective, then the public in general are the relevant parties for the purpose of protection of the trust properties. Such being the interpretation to be provided in respect of public trust, this Court is of an opinion that the point of delay cannot have much relevance in respect of recovery of possession or recovery of money due to the public trust properties. If such technical grounds of limitation and the point of maintainability, are raised, then this Court is of an apprehension that the persons may connive with each other and commit misappropriations and other illegalities. The intention of the Legislators are unambiguous that in all respects, the properties of the public trust are to be protected without any compromise.

56. Thus, this Court is of a clear opinion that whoever files a petition in respect of public trusts and its properties are to be treated as informers and the Court shall deal with the matter in order to protect and secure the properties or otherwise in respect of public trust.”

19. As per the dictum of the Hon'ble Supreme Court and this Court, the order passed by the trial Court has to be looked into and whether the allegations



made by the plaintiff are in accordance with CPC. Admittedly, the trial Court has dismissed I.A.No.3 of 2019 in O.S.No.170 of 2013, where, a direction was sought to issue summons to produce the documents, whereas, in I.A.No.5 of 2019, an application was filed seeking for production of documents, where, the trial Court had allowed the application.

20. Admittedly, allegations are made by the plaintiffs in paragraph 10 of the plaint and levelled allegations from I to XV. When allegations are made and available in the plaint, it is not for this Court to embark upon the veracity of the documents sought. This Court is empowered to look into whether there were allegations made in the plaint and admittedly, the allegations are made.

21. The trial Court had held that the plaintiffs have claimed production of memorandum of deposit of title deeds, dated 12.10.2011 along with the fixed deposit, cheques issued and the amounts received, loan received, payment to the contractor and the details of the students particulars for three years commencing from 2005 to 2008 and several other issues.



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22.The suit was filed under Section 92 of the CPC, which cannot be equated with other suits and hence, the trial Court had rightly held that the documents required by the plaintiffs are related to the suit and allowed the claim made by the plaintiffs.

23.As rightly contended by the learned Counsel appearing for the petitioner in C.R.P.(MD)No.1924 of 2019, the plaintiffs have narrated the entire facts with regard to the illegal activities of the second and third defendants in the capacity as Chairman and Secretary of the first defendant Trust in collusion with the other defendants and had cited 15 points for consideration before the trial Court and pleaded that the plaintiff had made several allegations with regard to the mismanagement, maladministration and abuse of office and by alleging several irregularities.

24.In view of the discussions made above, the order passed by the learned Principal District Judge, Trichy in I.A.No.5 of 2019 in O.S.No.170 of 2013, dated 22.08.2019 is confirmed and C.R.P.(MD)No.1697 of 2019 is dismissed and no further order is required in C.R.P.(MD)No.1924 of 2019, as the claim made by the



plaintiffs in I.A.No.3 and I.No.5 of 2019 is one and the same and in view of the fact that the order passed in I.A.No.5 of 2019 is confirmed by this Court. Accordingly, C.R.P.(MD)No.1924 of 2019 is also dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Internet	:Yes/No	(1/2)
NCC	:Yes/No	
Index	:Yes/No	

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To

The Principal District Judge, Trichy.



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N.SENTHILKUMAR, J.

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