



C.R.P(MD)No.2628 and 2629 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 06.03.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)Nos.2628 and 2629 of 2022

and

C.M.P(MD)Nos.12815 and 12816 of 2022

1.Sambaviga Educational Trust,
represented by its Secretary,
S.Rani,
Rakinipatti Village,
Sivagangai Taluk,
Sivagangai District.

2.Sambaviga Higher Secondary School,
represented by its Secretary,
A.M.Sekar,
Rakinipatti Village,
Sivagangai Taluk,
Sivagangai District.

3.A.M.Sekar

4.S.Rani

... Petitioners / Plaintiffs
(in both Civil Revision Petitions)

Vs

1.R.M.Kasi

2.K.Balamurugan

3.Malarveni

... Respondents / Defendants
(in both Civil Revision Petitions)



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PRAYER in C.R.P(MD)No.2628 of 2022: These Civil Revision petition are filed under Article 227 of the Constitution of India against the fair and decreetal order passed by the learned Subordinate Court, Sivagangai, in I.A.No.2 of 2022 in O.S.No.558 of 2019 dated 29.08.2022.

PRAYER in C.R.P(MD)No.2629 of 2022: These Civil Revision petition are filed under Article 227 of the Constitution of India against the fair and decreetal order passed by the learned Subordinate Court, Sivagangai, in I.A.No.2 of 2022 in O.S.No.559 of 2019 dated 29.08.2022.

For Petitioners : Mr.N.Tamilmani

For R1 to R3 : Mr.A.K.Manikkam

ORDER

These Civil Revision petition are filed against the order passed by the learned Subordinate Court, Sivagangai, in I.A.No.2 of 2022 in O.S.No.558 of 2019 and I.A.No.2 of 2022 in O.S.No.559 of 2019 dated 29.08.2022.

2. i) The suit in O.S.No.558 of 2019 was filed by this revision petitioner against three persons namely R.M.Kasi, Balamurugan and Malarveni, seeking the relief of permanent injunction restraining the



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defendants from interfering into the discharge of function as secretary of the first plaintiff's Educational Trust by the fourth plaintiff, similarly, restraining them from interfering into the functioning of the third plaintiff as secretary in the high school and for cost.

ii) Similarly, the suit in O.S.No.559 of 2019 was filed by the revision petitioner and others seeking the relief of rendition of account pertaining to the year 20.05.2012 and for other reliefs. Both the suits are pending for trial.

iii) Pending trial, an application was taken out by the revision petitioner in I.A.No.2 of 2022 in O.S.No.558 of 2019 and in the very same numbering in I.A.No.2 of 2022 in O.S.No.559 of 2019 stating that for about 4 years, the first defendant namely Kasi, defendants 2 to 3 namely Balamurugan and Malarveni, did not attend the Trust meetings. Similarly, second defendant who is working in the Government department. Other defendants are not co-operating with the plaintiffs for discharging the duties, they were removed from the membership on 15.07.2017, as per the resolution passed by the trust committee.



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3. Subsequent to that the trust deed was amended. As per the amended trust deed, one A.M.Sekar, who is the petitioner and Rani, M.S.Parthiban and M.S.Karthi, are the trustees. For about 5 years they are discharging their duties properly. Since the development took place subsequent to the filing of the suit, it must be brought on record by amending the plaint. Hence the petition.

4. The particulars of amendment are set out in the petition. That application was resisted by the respondents herein stating that there is a split among the trustee of Sambavika Educational Trust. Among five members, three are operating in one group and another group consisting of Sekar and Rani. As per the Trust By-Law, no resolution can be passed without majority. So the removal of the respondents from the Trusteeship is illegal. The registered amended trust deed is created illegally, it was not intimated to the Court. Over the issue, the respondent filed a complaint with District Registrar, Sivagangai on 15.03.2022. Now enquiry is underway in Na.Ka.No.2680/E1, 2022. No final order is passed so far. In fact, only the petitioners are acting against



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the interest of Trust, so the amendment dated 19.12.2017 is not valid under law.

5. After hearing both sides, the trial Court dismissed the petition stating that since the event took place subsequent to the filing of the suit, the cause of action will change. If at all, the revision petitioner has to file only a fresh suit on the fresh cause of action.

Both the applications came to be dismissed by the trial Court against which these two separate revisions are preferred.

6. Heard both sides.

7. Learned counsel for the revision petitioners would submit that since the respondents were removed from the Trusteeship subsequent to the filing of the suit, only for the purpose of bring on record the subsequent events, they filed the amendment application. It does not affect either the cause of action or the relief sought. It is a pre-trial amendment. The trial Court dismissed the same without making any

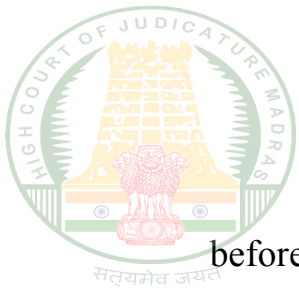


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observation that it may affect the result of the suit. According to him, as mentioned above since prayer is not altered, the above said observation of the trial Court is not proper.

8. Per contra, learned counsel for the respondents would submit that since it is only a subsequent event and that too an illegal amendment in the trust document, it was rightly rejected by the trial Court which requires no interference.

9. As mentioned in the preamble portion, against the amendment in the Trust Deed, the respondents appear to have filed a complaint before the Registrar, Sivagangai. In the counter, the date of objection is wrongly stated as 02.06.2012, but actually, the objection was made on 02.06.2022 by the respondent herein. The District Registrar, by order dated 31.10.2022, directed the Joint Registrar not to register any document in pursuance of the documents registered in No.14 of 2016 by including one Karthikeyan as Trustee. Apart from that it directed the parties to work out the remedy in the pending matters namely W.P. (MD)No.22086 of 2016 and other suits, pending between the parties



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before Subordinate Court and the learned District Munsif Court. So far as this petition is concerned, whether the removal of the respondents from the Trusteeship is legally sustainable or not is a matter for consideration by the competent authority in a competent proceedings. Neither the trial Court nor this Court can make any enquiry in this regard, because it is not the subject matter of the suits. Since the subject matter of the suit is not going to be affected by way of this amendment, since it is a subsequent event, I am of the considered view that the relief that sought in both the suits are neither going to be affected nor the basis of the suit will get changed. So both the revisions are liable to be allowed.

10. Accordingly, these Civil Revision Petitions are allowed. Consequently, connected miscellaneous petitions stand closed. No costs.

06-03-2025

NCC : Yes / No
Internet : Yes / No
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G.ILANGO VAN, J.

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To

- 1.The Subordinate Court, Sivagangai.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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