



W.P.(MD)No.31405 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD) No.31405 of 2024

R.Asokkan

... Petitioner

vs.

1.The Sub Registrar,
Chinnalapatti,
Dindigul District.

2.M.Sivakumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records from the 1st respondent in respect of refusal check slip issued in his proceedings in RFL/Chinnalapatti/74/2024 dated 13.12.2024 and quash and consequently direct the 1st respondent to register Deed of simplify amendment of Cheran Educational Trust dated 11.12.2024 within the period stipulated by this Court.

For Petitioner	:Mr.N.Sathish Babu
For R1	:Mr.R.Suresh Kumar
	Additional Government Pleader
For R2	: Mr.H.Lakshmi Shankar



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ORDER

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2. There exists a Trust by the name of “Cheran Educational Trust” at Chettiapatti, Dindigul District. The Trust was originally formed by way of a registered trust deed on 15.07.1999. At the time of registration, the Trust had the following trustees:-

- “i) A.Saravanan
- ii) R.P.Ravindran and
- iii) P.Chandraseharan”

3. Subsequently, A.Saravanan resigned from the Trust. Consequent thereto, a supplementary trust deed was executed on 31.10.2002. By this document, the resignation of Saravanan was accepted and the following persons joined the Trust as trustees:

- “i) R.Asokan
- ii) R.P.Ravindran
- iii) M.Sivakumar and



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iv) P.Chandrasekaran”

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4. The trust deed was further amended by another deed of amendment dated 28.03.2009. By this document, one Jeyaraman was included as trustee. Consequently, the following persons were the trustees:

“i) M.Sivakumar

ii) R.Asokan

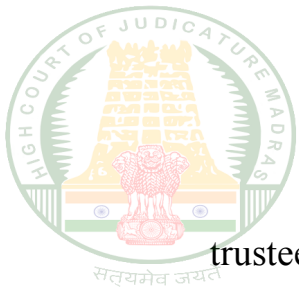
iii) R.P.Ravindran

iv) P.Chandrasekaran and

v) M.Jeyaraman”

Of these five, Sivakumar was given the title of managing trustee, R.Asokan was given the title of Executive Trustee and R.P.Ravindran as Financial Trustee.

5. The Trust is running a School under the name and style of “Cheran Vidhyalaya Matriculation Higher Secondary School”. Disputes arose between M.Sivakumar-the second respondent and the other

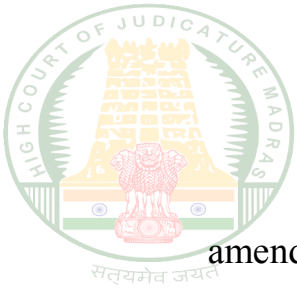


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trustees. One of the trustees, namely, Mr.R.P.Ravindran, passed away on 15.07.2021.

6. It is the claim of the second respondent, which is not seriously disputed by the writ petitioner, that Jeyaraman resigned on 20.08.2015. The second respondent pleads that a memorandum of understanding had been entered into between the second respondent and the other 3 trustees including the deceased R.P.Ravindran that the latter will move out of the Trust on payment of certain amounts invested by them in the Trust. For the sake of disposal of this writ petition, I need not dwell into the *inter se* disputes between the trustees.

7. The cause of action in this writ petition is that the trustees, apart from the second respondent, held several meetings and in one of the meetings, they inducted one Suseela as a trustee. It is also their case that Jeyaraman, who had resigned from the Trust, was also invited to join the Trust. Consequent to the resolution passed by the Trust, the writ petitioner representing himself as the Managing Trustee of Cheran Educational Trust presented a document titled “deed to simplify the



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amendment". In terms of the deed, it was stated that the second respondent-Sivakumar, had been removed from the position of Managing Trustee and a resolution had been passed appointing Suseela as Managing Trustee.

8. It was also recorded that in the meeting held on 22.09.2024, the Board of trustees reshuffled the Officers and appointed Asokan as the Managing Trustee with P.Chandrasekaran to act as Treasurer and Jeyaraman, Suseela and the second respondent to act as Trustees. This document was presented for registration with the first respondent. By the impugned order, the first respondent rejected the document on two grounds:-

- i) the resolutions were not unanimous and
- ii) M.Asokan, P.Chandrasekaran and R.P.Ravindran had removed themselves from the Trust.

Challenging the same, the present writ petition.



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9. This Court had entertained the writ petition on 20.12.2024.

Mr.D.Sadiq Raja, learned Additional Government Pleader took notice for the first respondent and notice was issued to the second respondent. Mr.H.Lakshmi Shankar has entered appearance for the second respondent.

10. I heard Ms.Saranya for the writ petitioner, Mr.R.Suresh Kumar, learned Additional Government Pleader for the first respondent and Mr.H.Lakshmi Shankar for the second respondent.

11. Ms.Saranya pleaded that the first respondent does not have the authority to refuse registration of the amendment deed on the basis of the objections that have been given by the second respondent. She pleads that the amendment deed had been presented along with copies of the resolutions supporting the contents and therefore, the first respondent is duty bound to register the document.

12. *Per contra*, Mr.H.Lakshmi Shankar argues that the rejection of the document by the first respondent is valid, as he has the power under

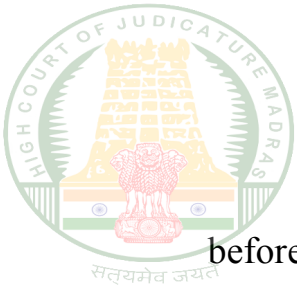


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Section 34(3)(c) read with Section 32(c) of the Registration Act. He states that the first respondent has to enquire as to whether the document had been presented is by a representative of the Trust and in any event, under Rule 55 (C), he is empowered to deal with the issue.

13. He further relies upon Rules 55A, 55C and 56 of the Registration Rules to argue that the first respondent should not register the same. He argues that Jeyaraman had resigned from the Trust in the year 2015 and this fact having been accepted by the so called present trustees, it is not known how Jeyaraman is shown as a trustee in the amendment deed. He further points out that as per Clause 11 of the trust deed, any amendment to the Trust requires the permission of the Commissioner of Income Tax and that not having been taken, the first respondent is duty bound to reject the same.

14. He urges that the document for the purpose of registration should be accompanied by the resolution, which state that the notices of the meetings were served on the second respondent and still he did not participate in the proceedings. As no such document had been produced



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before the first respondent, he had rightly passed an order rejecting the deed of amendment. Mr.H.Lakshmi Shankar relies upon the following judgments to press home his points:

“i) Kallipatti Oothukattu Mariamman Temple by its Trustee Sarangapani Gounder Vs. Ayyanperumal Gounder, (1956) 1 MLJ 230,

ii) K.Murugan Vs. The Joint II Sub Registrar, Dharmapuri District, W.P.No.18186 of 2020, dated 09.12.2020,

iii) B.Rajesh and another Vs. The District Registrar (Administration), Thanjavur and others, W.P.(MD) Nos.11199 and 11200 of 2022, dated 27.09.2022 and

iv) K.S.P.N.Rathinavel Vs. The Joint Sub Registrar No.II, Chennai and others, 2024 1 L.W. 807.”

15. I have carefully considered the submissions of both sides. I have gone through the records.



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16. I should point out here that a Trust is not a legal person. It acts through the office of trustees. The property of the Trust is managed by the trustees, the ostensible owners of the property. They occupy a representative capacity to the Trust. When a person acts as a trustee, he does so, for and on behalf, of the Trust. At the time of being appointed as a trustee, a person has an option either to accept the position or to reject the same. However, the act of resignation cannot be a unilateral one. This is because a person having accepted to act as a trustee cannot remove himself from the office of the trusteeship escaping his responsibilities unilaterally. Resignation from the office of Trust requires acceptance by the Board of Trustees, who represent the Trust.

17. Mr.H.Lakshmi Shankar has produced an order of resignation of one Jeyaraman. This resignation is dated 20.08.2015. A perusal of the letter of resignation shows that it has the endorsement of only the second respondent, who claims to be acting as a Managing Trustee, during the relevant time. No resolution has been produced by the petitioner or by the second respondent to show that the resignation of Mr.Jeyaraman had been accepted by the Trust acting through the trustees.



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18. Apart from that, there are two memorandums of understanding, which seem to have been entered into between the remaining 3 trustees and the second respondent on 04.07.2020 and another understanding entered into on 01.06.2022, after the death of Mr.R.P.Raivndran to show that the remaining trustees had removed themselves from the Trust. Hereto, there is no resolution of the Board of Trustees to show that the resignation had been accepted by the Board of Trustees.

19. The point that the resignation a trustee requires acceptance by the Board of Trustees is no longer *res integra*. It has been settled by a judgment of the Bombay High Court in ***Khojeste Mistree of Mumbai Indian Inhabitant and others Vs. Bombay Parsi Punchayet and others, CDJ 2008 BHC 1023*** and by this Court in ***Arulmigu Abhinava Dharma Sivachariar Mutt Vs. P.Ekambaram and others, (2018) 7 MLJ 33***. It has been pointed out in both these judgments that a resignation cannot be unilaterally enforced, but it should be approved by the Board of Trustees. At the time of such acceptance, quorum should be maintained for the purpose of its acceptance. No records has been produced to show that

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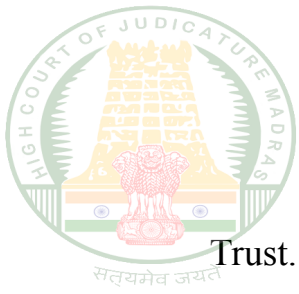


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subsequent to the resignation of Mr.Jeyaraman or the other 3 trustees, a resolution accepting the relinquishment of Office by the trustees had been passed by the Board of Trustees of Cheran Educational Trust.

20. The objection of Mr.H.Lakshmi Shankar that continuing trustees, post the resignation of Mr.Jeyaraman, have accepted the position of Mr.Jeyaraman, having removed himself from the Trust, in my view, does not help the case of the second respondent. This is because as individuals, they might have accepted the resignation of Jeyaraman and Jeyaraman himself would have been happy that he had not been called upon to attend the other Trust meetings. The point remains that a resignation comes into effect only on its acceptance by the Board of Trustees and that resolution not having been placed before this Court, I have to take it for the disposal of this case that Jeyaraman continued in that position, as his resignation had not been accepted by the Board of Trustees.

21. The reason for acceptance of a resignation of a trustee is not far to see. By the very nature of the Office, a trustee acts on behalf of the



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Trust. If he were to commit acts of misfeasance or malfeasance and to avoid any enquiry into the same, he can unilaterally resign from the office of Trust and claim that he is a stranger to the Trust. It is only to avoid such situations that the resignation of a trustee requires a proper acceptance and resolution to be passed by the Board of Trustees and recorded in the proceedings maintained on behalf of the Trust.

22. I should add here that whether Jeyaraman resigned or not does not make a difference to this case, as subsequently, a resolution had been passed stating that the trustee, Jeyaraman had attended the meeting in 2023. Maybe, Jeyaraman had attended the meeting, as he had been invited by the continuing trustees or had been inducted as a fresh trustee acting upon the resignation dated 20.08.2015. Either way, it does not matter for the disposal of this writ petition. This is because this writ petition deals with the jurisdiction of the first respondent to reject a document bringing forth an amendment to the Trust.

23. It is too well settled, but I have to reiterate for the purpose of this case that an impugned order is not like old wine, which improves



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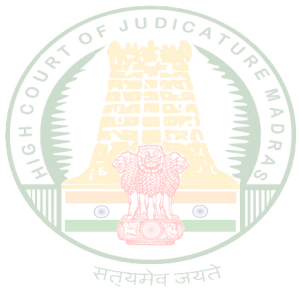
with age. None of the pleas raised by Mr.H.Lakshmi Shankar find place in the impugned order. The first respondent himself cannot explain the impugned order by way of a counter affidavit. If that be the position, the first respondent's order cannot be supported by the external struts that are provided by Mr.H.Lakshmi Shankar.

24. As he has raised an issue of law, I will have to consider the Sections and Rules on which Mr.H.Lakshmi Shankar relies upon. Section 32 declares as to who are the persons, who can present the document for registration, ie.,

- a) being a person claiming under the document,
- b) representative or assign of such person and
- c) agent of such person, representative or assign of the aforesaid two categories.

25. Under Section 34 of the Registration Act, a Registrar is entitled to conduct an enquiry to satisfy himself

- a) as to whether the document had been executed by the persons, by whom it purports to have been executed,



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b) satisfy himself regarding the identity of the persons appear before him and

c) whether the person, if appearing as representative, is in fact the representative, assign or agent and the right of such person to present the document.

26. It is pertinent to point out the words “*the right of such person so to appear*” is not found under Section 34(3)(a) of the Act. The words used in the Section are “enquire whether or not such document was *executed* by the *persons* by whom it purports to have been executed.” This implies if a person presents a document and he satisfies the Registering Officer as to his identity, the role of the Registrar stops there. Only if a person claims to be a representative, assign or agent, then, the right of such person would have to be enquired.

27. Rule 55 also points out that it is not the duty of the Registering Officer to enquire into the validity of the document brought before him or act upon any written or verbal protest unless and until

a) the persons presenting the documents are not the persons they



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profess to be,

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- b) the document is an act of forgery,
- c) the person appearing as representative, assign or agent does not have the right to act in that capacity,
- d) the executing party is not dead as alleged and
- e) the executant is either a minor or a mentally challenged person.

28. Before I go into the discussion of these provisions to the present case, I should point out that in the impugned order, the first respondent has not questioned the identity or the capacity of Mr.Asokan as a trustee of Cheran Educational Trust. A perusal of the impugned order shows that the reason he has given to reject the document has been set forth above. None of these reasons fall either under Sections 32 or 34, Rule 55 and 56 of the Registration Act as well as Rules. On the contrary, a perusal of the order shows that the Registrar has conceded to the capacity of Mr.Ashokan to present the document as a Managing Trustee, but has gone into the validity of the document on the ground that it has not been supported by an unanimous resolution passed by the Board of Trustees.



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29. As pointed out above, under Rule 55, it is not the duty of the Registrar to look into the validity of the document. His scope of enquiry is limited within the fore corners of Rule 55 (a) to (e). When a case does not fall under any of the Rules under Rule 55, the buck stops there. The first respondent should have registered the document and left it open to the parties to agitate the civil rights before the competent civil Court. Instead, he donned upon himself, the role of the civil Court questioning the validity of the document on the ground that it is not supported by an unanimous resolution and also the fact that the three named persons had removed themselves from the Trust. Whether the memorandum of understanding is valid or not and whether the resolution was validly passed or not is not for the Sub Registrar to enquire.

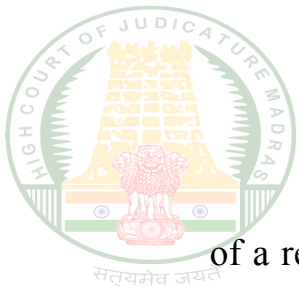
30. Now turning to the authorities that have been relied upon by Mr.H.Lakshmi Shankar. The first of the judgment is ***Kallipatti Oothukattu Mariamman Temple by its Trustee Sarangapani Gounder Vs. Ayyanperumal Gounder, (1956) 1 MLJ 230***. The issue before the Court was whether a person, claiming to be a worshipper of a temple, can



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present a document for compulsory registration under the Registration Act on behalf of the temple. In that case, the execution of the document had been denied. Hence, registration was refused. This order had been confirmed by the District Registrar on Appeal. Thereafter, a statutory suit was presented under Section 77, which finally wound up before this Court by way of a second appeal.

31. In the second appellate stage, it was argued that a worshipper of the temple is a representative of the temple and therefore, he could present the document. This plea was rejected by the Court holding that it had not been raised before the statutory authorities or the Courts below and further, a worshipper cannot be treated as a representative of the temple for presentation of a document under Section This judgment does not apply to the facts of the present case. As pointed out above, the Sub Registrar in the impugned order has not questioned the authority of the writ petitioner, Mr.Asokan as a trustee. Had that issue been raised, certainly, this position could have been applied. On the contrary, the Sub Registrar had stated that Mr.Asokan had removed himself from the Trust obviously relying upon the memorandum of understandings. The validity



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of a resignation is certainly not a matter, which can be probed into, by a Sub Registrar.

32. The next judgment in *K.Murugan's case* points out that the Sub Registrar had rejected the document on the ground that the amendment required previous permission of the Commissioner of Income Tax or from the Court. In that particular case, a suit in fact had been pending in O.S.No.48 of 2020 on the file of the District Munsif Court, Dharmapuri. Since permission had not been obtained from the Court, the learned single Judge of this Court took a view that the reasons given by the Sub Registrar cannot be found fault with. Unfortunately, for Mr.H.Lakshmi Shankar, in the present case, the Sub Registrar has not rejected the document on the ground it does not satisfy the requirements of Clause 11 of the trust deed dated 15.07.1999 or 31.10.2002. New reasons cannot be found at the time of disposal of the writ petition. The impugned order, is being tested, on the reasons that have been given by the first respondent. The reason that has been given by the Sub Registrar is not the one pleaded by Mr.H.Lakshmi Shankar. Hence, the said judgment does not apply to the facts and circumstances of the case.



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33. Insofar as the judgment in *B.Rajesh's case* is concerned, a learned single Judge came to a conclusion that the amendment deed presented by the third respondent therein was a unilateral act and not supported by the life trustees. In fact, a careful perusal of the judgment in paragraph No. 10 makes it clear that the competency of the third respondent to file the document had been one in question in that particular case. To reiterate, the present impugned order does not state that Mr.Asokan is incompetent.

34. Finally, turning to the sheet anchor of the argument of Mr.Lakshmi Shankar, namely the judgment in ***K.S.P.N.Rathinavel Vs. The Joint Sub Registrar No.II, Chennai and others, 2024 1 L.W. 807.*** A careful perusal of the facts of the case is relevant. Though that writ petition was styled as Writ of Certiorarified Mandamus, it was in effect Writ for Prohibition. A document was presented for registration. The Registrar, by the impugned proceedings, had issued a notice calling upon the petitioner to appear for an enquiry. The writ petition was filed



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questioning the jurisdiction of the Sub Registrar to summon the executant of the document for an enquiry. The learned Judge after referring to Rule 55 came to a conclusion that at the time of registration, a Sub Registrar can certainly enquire regarding the five parameters set forth under Rule 55.

35. Mr.H.Lakshmi Shankar is right that during the course of discussion, the learned Judge had observed that the Registrar is competent to enquire into the legitimacy of the trustees to present the document. This issue also for the reasons stated supra does not apply in the present case. This is because the Sub Registrar did not question the competency of Mr.Asokan to present the document.

36. I am of the view that the reasons that have been given, namely that there is no unanimous resolution or that the trustees, who have presented the document, had removed themselves from the Trust do not fall within Sections 32 and 34 or Rules 55 and 56 of the Registration Act and Rules respectively. Hence, it deserves to be set aside.



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37. Before I bring the curtains down in the case, I have to point out

Mr.H.Lakshmi Shankar pleads that the Trust is running a School and by virtue of any orders passed in the writ petition, the running of the School would be adversely affected. This fear is absolutely unfounded. All that I have done is to hold that the Sub Registrar is not a civil Court empowered to deal with the issues that have been raised before him. In case, the trustees have a dispute *inter se*, they always have a remedy either to invoke Section 92 Code of Civil Procedure, as the Trust involved is a Public Trust or seek for such reliefs as it is personally open to them before the competent civil Court. For a mere fact that the document is registered does not mean that the administration of the School would be affected in any manner. In case of any interference faced by the person in management of the institution today, it is always open to him to approach the jurisdictional civil Court as stated above.

38. In the light of the above discussion, I have no other option than to quash the impugned proceedings. The Mandamus, as sought for, is granted. The registration shall be completed within a period of four weeks from the date of receipt of a copy of this order. It is open to the



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petitioner and the second respondent to challenge the genuineness of the resolution said to have been passed by the Board of Trustees before the competent civil Court. Suffice to state that the first respondent is not a civil Court to conduct a roving enquiry into the validity or otherwise of the resolution.

39. With the aforesaid directions, the Writ Petition is allowed. No costs.

Index :Yes / No
Internet :Yes / No
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17.02.2025

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To

The Sub Registrar,
Chinnalapatti,
Dindigul District.



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V. LAKSHMINARAYANAN, J.

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