A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.236 of 2026
CNR No-ODHC010060892026
Along with
CMP No.235 of 2026
CNR No- ODHC010060742026

(In the matter of Petitions under Article 227 of the Constitution of India, 1950).

Tirupati Panigrahi **....** ***Petitioner (s)***
(In both the Petitions)

-versus-

Tirupati Choudhury & Ors. **....** ***Opposite Party (s)***
(In both the Petitions)

Advocates appeared in the case through Hybrid Mode**:**

For Petitioner (s) : *Mr. Goutam Mukherji (Sr. Adv.)*
along with
Mr. Abhishek Dash, Adv.

For Opposite Party (s) : *Mr. S.P. Mishra, Sr. Adv.*
along with
Mr. S. Sastry, Adv.

CORAM:
HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-24.08.2026
DATE OF JUDGMENT:-30.10.2026

Dr. Sanjeeb K Panigrahi, J.

1. Since common questions of fact and law are involved in the above-mentioned matters, the same were heard together and are being disposed of by this common judgment. However, for the sake of

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convenience and proper adjudication, CMP No.236 of 2026 is treated as the leading case

2. In CMP No.236 of 2026, the Petitioner/ Defendant No.1 challenges the order dated 24.12.2025 passed in I.A. No.02 of 2025, arising out of C.S. No.19 of 2025, by the learned District Judge, Bhubaneswar, Khordha dismissing his petition for revocation of leave under Section 92 of the Code of Civil Procedure, 1908 to present the suit vide order dated 18.12.2025 passed in the aforesaid suit.

I. FACTUAL MATRIX OF THE CASE:

3. The brief facts of the case are as follows:

(i) Vigyan Bharati Charitable Trust ("Trust") is a public trust for educational purposes of public at large. It came to existence in the year 2002 with an aim to establish healthcare institutions and other educational institutions for public benefit. In all case, it will not be gainsaid that the Petitioner since the inception has assumed role of Chairman of the Trust and acting as the Chairman with Suresh Kumar Panigrahi (Defendant No.2) as the Managing Trustee.

(ii) The Opposite Party No.l and 2 in their unjust bid to overthrow the Petitioner from the Trust's management and assume control to siphon funds conspired and adopted fraudulent tactics. The Opposite Party No.l (Plaintiff No.2) manipulated his daughter Sabitri Panigrahi (who happens to be the daughter-in-law of the Petitioner), Opposite Party No.7 to sign on blank papers in the

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garb of banking requirement. Thereby, using the signatures fraudulently obtained and forging them to manufacture resolutions.

(iii) One such fabricated resolution dated 24.02.2025 was moved clandestinely concerning Trust administration, management as well as amending the Trust Deed vide the Deed dated 09.05.2025 (Manufactured Trust Deed) showing removal of the Petitioner from Chairmanship behind their back. On anvil of which, on 12.05.2025, the said Opposite Party in order to declare such actions valid also filed a declaration suit before the learned Civil Judge (Jr. Div.), Bhubaneswar in C.S. No.1193 of 2025 seeking injunction against the Petitioner.

(iv) Trite at this juncture to state that the I.A. for ex parte ad-interim reliefs under Order 39, Rule 3 filed in the First Suit i.e. in C.S. No. 1193 of 2025 was dismissed by the learned Civil Judge (Jr. Div). Assailing the said dismissal, first appeal was filed before the learned Dist. Judge in FAO No.71 of 2025. The learned Dist. Judge vide judgment/order dated 19.07.2025 while holding the appeal to be not maintainable being not prescribed under Order 43, Rule 1 of CPC directing analogous hearing of the matters considering pendency of the two suits taking aid of Section 24 of CPC before the learned Civil Judge (Sr. Div.).

(v) Upon learning of the fraudulent methods to oust the Petitioner using forged signatures, the Opposite Party No.7 raised her objection to sign on any such resolution and amended trust deed

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urging the Chairman, the Petitioner to take necessary action against them. In such view of the matter. The Opposite Parties Nos. l and 2 were disqualified from trusteeship with effect from 10.05.2025 in accordance with by-laws vide a Resolution. Consequently, Trust Deed was amended vide registered Trust Deed dated 15.05.2025, with signatures of all other Trustees. Against this, the Opposite Party Nos. l and 2 filed another suit i.e. C.S. No.1563 of 2025 before the learned Civil Judge (Jr. Div.), Bhubaneswar.

(vi) A perusal of the order sheet would go to show in clear terms that the suit was admitted vide Order dated 11.07.2025. Pursuant to which, application under Order 7, Rule 11 was filed by the Petitioner, Defendant No. l therein for rejection of the plaint. The objection raised therein was attempted to be cured by presenting a petition under Section 92 of CPC. Such a Petition seeking leave of the Court under Section 92 of CPC read with Section 91 of CPC, which is a mandatory condition precedent for instituting a suit wherein charitable trust is made party.

(vii) The learned Civil Judge, however, vide order dated 16.08.2025 granted leave under Section 92 without authority of law being not the competent Court to render such leave.

(viii) The Petitioner has, in the meantime, also filed its show cause to interim application under Order 39 CPC.

(ix) Challenging the order granting leave by the learned Civil Judge (Sr. Division), Bhubaneswar, the Petitioner had approached this

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Court in CMP No. 1912 of 2025. This Court vide order dated 04.12.2025 set-aside the order granting leave directing to proceed under Order VII Rule 10 read with Rule 10-A of CPC.

(x) Accordingly, a fresh plaint was filed before the competent court of District Judge, Khurda. The suit was registered as C.S. No.19 of 2025 with petition for leave. The present Petitioner as Defendant filed his objection dated 18.12.2025 to the leave petition.

(xi) The learned District Judge however, granted the leave vide order dated 18.12.2025. being aggrieved, the Petitioner moved an application for revocation of the said leave.

(xii) The learned District Judge vide order dated 24.12.2025, rejected the revocation petition finding the dispute to be regarding administration of the trust and management of its accounts held that there is no circumstance existing to revoke the leave granted.

(xiii) Being aggrieved by the said impugned order rejecting leave revocation and allowing the leave thereto, the Petitioner is constrained to approach this Court by way of the present CMP.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

4. The learned counsel for the Petitioner earnestly made the following submissions in support of his contentions:

(i) A close reading of the averments taken in the plaint would go to show that the mandatory pre-requisite conditions for invocation of the provision under Section 92 of the CPC which deals with

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public charities, in seeking the leave to institute the suits are not satisfied. The Plaint averments and the reliefs claimed therein are not for vindication of any public rights. On the other hand, the claims made and the dispute raised for adjudication are essentially of private nature mainly concerning with the constitution of trust revolving around the individual rights of the trustees much less to say on the management and administration of the trust.

(ii) The reliefs revolve round the declaration of individual and personal rights; bereft of any allegation as to the breach of trust necessitating a direction of the Court for administration of trust. Reference may be made to Paragraphs 1 to 5 of the Petitions filed by the Plaintiffs seeking leave under Section 91 read with 92 of the Code as also the plaint(s) averment(s) more particularly Paragraphs 5, 6, 10 and 11.

(iii) It would be evident therefrom that neither there is anything substantially pleaded as regards representing the public and breach of trust of the public as the compelling situation for filing the suit, seeking declaration relating to management and administration of the trust. The prayers made in the plaint being appreciated in the backdrop of the plaint(s) averments, make it clear that the declaration sought for as the principal reliefs are all in assertions of their individual and personal rights. Therefore, the suits do not fall within the purview of clauses (a) to (h) of

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Section 92 of CPC and for their institution as such by taking the leave.

(iv) The fundamental position of law requiring that the suit must be against a trust; is not the case here. The real test for applicability of the Section 92 of the CPC that fundamentally the suit be on behalf of public for public right concerning existence of a public trust and its breach thereof necessitating the direction of the court for proper administration are not at all getting expressed in the plaint averments. Rather, a careful reading reveals that the suits by the Plaintiffs are to achieve the personal goal in gaining control and run the Trust without active participation of the Defendant Nos.1. 8.

(v) In ***Vidyodaya Trust vs. Mohan Prasad R. & others***[1], the Supreme Court at paragraphs 18 and 19 thereby held as under:

> *"18. Prior to legislative change made by the Code of Civil Procedure (Amendment) Act (104 of 1976) the expression used was "consent in writing of the Advocate General". This expression has been substituted by the words "leave of the Court". Sub-section (3(3) has also been inserted by the Amendment Act. The object of Section 92 CPC is to protect the public trust of a charitable and religious nature from being subjected to harassment by suits filed against them. Public trusts for charitable and religious purpose are run for the benefit of the public. No individual should take benefit from them. If the persons in management of the trusts are subjected to multiplicity of legal proceedings, funds which are to be used for charitable or religious purposes*

[1] (2008) 4 SCC 115

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would be wasted on litigation. The harassment might dissuade respectable and honest people from becoming trustees of pubic trusts. Thus, there is need for scrutiny.

19. ***In the suit against public trusts, if on analysis of the averments contained in the plaint it transpires that the primary object behind the suit was the vindication of individual or personal rights of some persons an action under the provision does not lie. As noted in Swami Paramatmanand case a suit under Section 92 CPC is a suit of special nature, which presupposes the existence of a public trust of religious or charitable character. <u>When the plaintiffs do not sue to vindicate the right of the public but seek a declaration of their individual or personal rights or the individual or personal rights of any other persons or persons in whom they are interested, Section 92 has no application</u>.:"***

[Emphasis Supplied]

(vi) In the above case, their Lordships, on reading of the Plaint averments have held that though the colour of legitimacy was sought to be given by projecting as if the suit was for vindicating public rights, the emphasis was on certain, purely private and personal disputes. Further, the Supreme Court referred to the decision in case of ***Sugra Bibi vs. Hazi Kummu Mia***[2], wherein it was held that the mere fact that the suit relates to public trust of religious and charitable in nature and the reliefs claimed fall within some of the clauses of Section 92(1), would not by itself attract the operation of this Section, unless the suit is of a representative character instituted in the interest of public and

[2] AIR 1969 SC 884

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not merely for vindication of individual and personal rights of the Plaintiff. Reiterating the same principle of law in paragraph 26 of the ***Vidyodaya Trust (supra)***, it has held that it is not every suit claiming reliefs fs under Section 92 CPC that can be brought under the said provision, but only the suits which besides claiming any of the reliefs; are brought by individuals as representatives of the public for vindication of public right.

(vii) In ***Ghat Talab Kaulan Wala vs. Gopal Dass Chela Shurti Das (dead) by Legal Representative Ram Niwas***[3], the Supreme Court at Paragraph 12 has held as under:

> *"…12. We have heard the learned counsel for the parties. We find that the order passed by the High Court in respect of first substantial question of law is not sustainable. Section 92 of the Code contemplates a suit against a trust either for removing any trustee; appointing new trustee; or vesting any property in a trustee, etc. but the present suit itself is by a Trust against a Sevadar, therefore, the procedure prescribed under Section 92 of the Code would not be applicable in a suit by a trust. Section 92 of the Code confers right on a person in case of any alleged breach of any express or constructive trust created for a public purpose of a charitable or religious nature. Since the Trust itself was the plaintiff, the finding of the High Court is clearly erroneous and not sustainable."*

(viii) In ***Operation Asha v. Shelly Batra and Others***[4], while stating the object and purpose behind, Section 92 of the CPC, the Supreme Court had the occasion to reiterate the pre-conditions for

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[3] (2020) 13 SCC 50

[4] 2025 SCC OnLine SC 1605

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attracting the provision under Section 92 of CPC so as to grant leave for institution of the suit. Analyzing the object and purpose behind Section 92 of CPC at Paragraph 33, their Lordships observed as under:

> *"33. 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."*

(ix) Further, referring to several earlier decisions of the Apex Court including those referred to hereinabove have conclusively held:

> *"…137. For the sake of convenience, a conspectus of the legal and factual discussion in the preceding paragraphs is as follows:*
>
> *i. A suit under Section 92 of the CPC is a representative suit of a special nature since the action is instituted on behalf of the public beneficiaries and in public interest. 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 trusts 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. However, at the stage of grant of leave, the court neither adjudicates upon the merits of the dispute nor confers any substantive rights upon the parties.*
>
> *ii. Several decisions of this Court have outlined certain conditions or essential pre-requisites that*

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need to be fulfilled for a suit to be maintainable under this provision. This Court in Ashok Kumar Gupta (supra) delineated them as follows (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; and (c) the relief claimed must be one or other of the reliefs as enumerated under Section 92(1) of the CPC. In order to successfully establish that a suit is not maintainable under Section 92, it would be sufficient to 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****."*

(x) In the touchstone of the aforesaid settled legal principles, all averments made in the plaint if read with special emphasis to averment in paragraph 17 of the Plaint indicating the cause of action for the suit, it becomes apparent that the bundle of facts leading to the cause of action for the suit(s) are inter se personal disputes between parties. The exact averment made in paragraph 17 of the Plaint is quoted hereunder:

"17. That the cause of action arose in the case within the jurisdiction of this Hon'ble Court for the first time, on dated 27.09.2002, when the Plaintiff no.1 was instituted for the first time. Then all other subsequent dates, then on dated 09.05.2025, when the amended trust deed has been registered with the DSR, Khurdha, Bhubaneswar, then on dt.10.05.2025, when the defendant No.2 has issued an illegal letter stating that the plaintiffs No. 2 & 3 have been disqualified from the trust on vague allegations having no iota of evidence, then on

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subsequent dates when the Defendants are trying to create disturbance over the suit schedule properties. Finally, the cause of action has aroused on dt. 02.07.2025 when the certified copy of amended Trust deed dt.15.05.2026 was obtained and on such other dates as stated above."

(xi) The Plaintiffs do not seek an adjudication by the Court under Section 92 of CPC that a particular trustee be removed in the interest of the Trust and another trustee be appointed for proper administration. Rather, they seek a declaration that their own resolutions are valid and the rival resolutions and Trust Deed are invalid. Merely the Trust being a charitable one cannot cure the dominant character of the suit, which in substance do not fall within the mandatory statutory pre-conditions of Section 92 CPC.

(xii) In view of all the above, it is submitted that, the mandatory legal requirements as provided under Section 92 of CPC are not satisfied and the suit(s) as laid although projects to be a suit for vindicating public rights but in substance seeks adjudication of disputes which are purely private and personal in nature, lest to say for protection of the interests of the public.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY NOS.1 TO 5:

5. The learned counsel for the Opp. Party Nos.1 to 5 earnestly made the following submissions in support of his contentions:

(i) The Opposite Parties Nos.1 to 5 are the plaintiffs before the learned trial court along with Vigyan Bharti Charitable Trust, a public charitable trust founded in the year 2002 which runs

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among other institution, Hi-Tech Medical College and Hospital at Bhubaneswar and at Rourkela, Hi-Tech College of Nursing, Hi-Tech School of Nursing, Hi-Tech Dental College, Hi-Tech College of Pharmacy, Hi-Tech +2 Science College and Hi-Tech Public School. The dispute concerns the administration and management of the said Trust and of its institutions after the majority of the trustees removed the Petitioner from the office of Chairman and the Defendant No. 2 from the office of Managing Trustee by resolution dated 01.05.2025.

(ii) Section 92 of C.P.C. contemplates that:

> *"92. Public charities .-*
> *(i) ln 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 and having obtained the [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;*
> *(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;] [inserted by Act 66 of 1956, Section 9.]*
> *(d) directing accounts and inquiries;*

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(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."

(iii) In order to maintain a suit under Section 92 of the C.P.C., a leave to file the suit from the Court is required to be obtained in order to institute the suit. A leave under Section 92 of C.P.C. can be granted by the Court either before notice to the Defendants or by noticing the Defendants. In the event, leave is granted under Section 92 of the C.P.C. before notice on appearance of the Defendants, the Defendant may file an application to revoke the leave granted in favour of the Plaintiff.

(iv) Normally, ex-parte leave is granted if the Plaintiff on the facts of the case warrants an interim order to protect the interest of the Trust and its objectives which requires to be protected immediately. It is held as per law that a suit under Section 92 of the C.P.C. is a suit of special nature which pre-supposes the existence of a public trust of a religious or charitable character. In order to apply that Section, the following conditions must be satisfied:

"a) There must exist a trust for public purposes of charitable or of a religious nature;

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b) The Plaintiff must allege that there is a breach of such trust or that the direction of the Court is necessary for the administration of the Trust;
c) The suit must be a representative one on behalf of the public and not an individual for the own interest;
d) The relief claimed in the suit must be one of the reliefs mentioned in the section."

(v) The aforesaid view has been fortified in ***Kintali China Jaganadham vs. K. Laxmi Naidu***[5]. In order to ascertain whether the basic ingredient are fulfilled or satisfied in order to maintain the suit/leave application, the Court is to examine the averments made in the Plaint alone and not any other documents or the W.S.

(vi) In the case of ***Charan Singh and Anr. vs. Darshan Singh and Ors***.[6] The Supreme Court has held the following:

> *"Reading the plaint as a whole it is not a suit where the plaintiffs wanted a declaration of their right in the religious institution in respect of the Granth Sahib. But it was a suit where they wanted enforcement of due performance of the duties of the trustee in relation to a particular object of the trust. It is well-settled that the maintainability of the suit under Section 92 of the Code depends upon the allegations in the plaint and does not fall for decision with reference to the averments in the written statement."*

In the instant case, in C.S. No. 18 of 2025, on a bare reading of the Plaint itself it would be evident that there is specific allegation in Paragraph No. 5 regarding financial irregularities against the Erstwhile Chairman i.e., Defendant Nos.1 and Defendant No. 2

[5] AIR 1988 Ori 100
[6] 1975 (1) SCC 298

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another Trustee both being father and son. Allegation regarding the mismanagement of the Trust which is meant for public purpose in smooth running of the public institution, specifically, mentioning in Paragraph No.6 of the Plaint and specific allegation about non-cooperation of the Erstwhile Chairman i.e., Defendant No.1 for not calling for trust meeting and not attending meetings and non-cooperation which is contrary to the terms and condition of the Trust Deed which resulted in removal of Defendant No.l and Defendant No.2.

(vii) There is specific allegation in Paragraph No.9 of the Plaint regarding fraud practice by Defendant Nos.1 and 2 to affect the smooth management of the Trust affecting the public in general because of their highhanded action. Similarly, in Paragraph Nos.l0 and 1l of the Plaint, there is specific allegation about illegal financial transaction of the Trust account and operating the banks eve after their removal and creating fabricated and forged backdated documents and amending the original trust deed claiming to be the Chairman of the Trust.

(viii) In Paragraph No. 13 of the Plaint, it has been mentioned how Defendant Nos.1 and 2 without any authority by a misconceived resolution inducted one Rupesh Ku. Panigrahy who is a member of Legislative Assembly from Paralakhemundi i.e., Parala Constituency was not present on the day he was inducted.

(ix) In Paragraph No.15 of the Plaint, there is specific allegation that Defendant Nos.1 and 2 are trying to completely change the nature

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and character of the Trust, its institutions, assets and liabilities, staffs which otherwise going to affect the running educational as well as institution and affect the public in general.

(x) On a close reading of the Plaint, it would be evident that there is no personal animosity or rivalry but the existing Trustees wants to preserve and protect the Trust, its properties and the fund that is available which is meant to be utilized for public purpose. The relief claimed involves removing any trustee, appointing a new trustee and directing accounts and inquiries which comes within the ambit of Section 92 of the C.P.C.

(xi) The suit has been filed by the Trust and the Trustees who are also the public interested to safeguard the interest of the Trust vis-a-vis the public interest. There is no prohibition under Section 92 of the Code when there is allegation regarding mismanagement and allegation of breach of trust and allegation of misappropriation of Trust and, a suit by the Trust and its Trustees cannot file a suit for vindicating the public grievance and protect the interest of the Public against the Trustees who have committed the breach.

(xii) The decision referred to by the Petitioner in ***Ghat Talab Kaulan Wala (supra)*** arises out of a suit for mandatory injunction directing the Defendant a Sebadar without filing the suit invoking Section 92 of the Code.

(xiii) The Trial Court dismissed the suit on the ground that it is not maintainable as no leave has been obtained under Section 92 of the Code. High Court confirmed the same as if suit of that nature

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comes within the purview of Section 92 of the Code. The Supreme Court held that such a suit does not come within the purview of Section 92 of the Code no leave is required to be obtained and accordingly held the suit to be maintainable. The aforesaid decision has got no application to the present case as relied upon and cited by the Petitioner.

(xiv) In order to substantiate the case of the Plaintiff/Opp. Party the following decisions are relied upon i.e., ***Sangram Mudali and Ors. vs. Sukant Mohapatra and Ors.***[7] and ***Kintali China Jaganadham (supra)***. ln both the aforesaid decisions, the question of grant of leave under Section 92 of the Code of the subject matter which was dealt with in the context of the reliefs claimed in the suit which comes within the relief of Section 92 of the CPC. So far as the decision in ***Vidyodaya Trust (supra)*** relied upon by the Petitioner is concerned, the aforesaid decision refers to a case where the matter has been adjudicated in a suit and in the suit one of the preliminary grounds taken was that whether the suit is hit by Section92 of the CPC.

(xv) In the foresaid suit, the Supreme Court by referring to catena of decisions on the subject specifically held in Paragraph No.24 that on a close reading of the plaint averments it is clear that though the color of legitimacy was sought to be given by projecting as if the suit was for vindicating public rights the emphasis was on

[7] 2013 (I) OLR 983

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certain purely private and personal dispute and accordingly, the Court held that suit in that case comes within the purview of Section 92(l)of C.P.C. It is apt to mention here that as already stated as per the settled position of law the averments of the Plaint have to be gone into detail to find out whether there the suit has been filed to protect the interest of the Trust and Trustees meant for public purpose or merely vindication of individual personal rights.

(xvi) Initially, the suit was filed without recourse to Section 92 that was objected to by the Petitioners who were defendants. Section 92 permission was sought for after the objection. Trial court granted the leave that was challenged before High Court on jurisdictional issue as the suit was maintainable in District Judge Court. Before the District Judge Court, the Petitioners as Defendants appeared suo-moto and contested the leave application by filing objection. Tial Court granted leave. Again, an application was filed for revocation of the leave and against that order the CMPs are filed.

(xvii) In such view of the matter, it was contended that the impugned order does not suffer from any illegality or irregularity or there is jurisdictional error which warrants interference.

IV. FINDINGS OF THE LEARNED DISTRICT JUDGE, KHURDA:

6. The learned District Judge, Khurda, while passing the impugned order has observed that "*In terms of Section 92 of the Code of Civil Procedure, in case of any alleged breach of any express or constructive trust created for public*

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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 interest in the trust after obtaining leave of the Court, may institute a suit, if any of the circumstances enumerated in Clause (a) to (h) exists to obtain a decree. The plaintiff Trust is undoubtedly a Charitable Trust. From the pleadings of the plaintiffs, it appears, there is dispute regarding administration of the Trust and management of its accounts. Therefore, this Court after taking into consideration the nature of dispute relating to the Trust and in particular having heard learned counsels for the plaintiffs as well as the defendants, granted leave to the plaintiffs to present the plaint. Therefore, in the aforesaid circumstances as well as the decisions of the Hon'ble Supreme Court in the case of ***Charan Singh and another*** *(supra) and in the case of* ***R.M. Narayana Chettiar and another*** *(supra), there is no circumstances exists to remove or recall the leave already granted to the plaintiffs to institute the suit. Hence, ordered*."

V. COURT'S REASONING AND ANALYSIS:

7. Heard learned counsel for the parties and perused the materials available on record.

8. Public trust is a solemn covenant between the generosity of the few and the welfare of many and a promise dedicated to the common good shall never become the private preserve of those entrusted with its care. It is upon such a promise that the Trust in the present case was based. In 2002, the founders of the Vigyan Bharati Charitable Trust made such a promise, and redeemed it in hospitals, colleges and a school that have since served the sick and the youth of Odisha. Two decades on, the

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promise stands imperiled by those sworn to keep it. Trustees who once shared a noble purpose now trade resolutions, rival deeds and lawsuits, each camp crowning itself the rightful guardian. One camp now knocks at the door of Section 92 of the Code of Civil Procedure, 1908 ("the Code"). The said door was built for the public's champions and the law bars it to those who seek only the keys of the house. Whether the Plaintiffs come as champions of the charity or as claimants to its command is the question this judgment shall endeavor resolve. The instant controversy in C.S. No. 19 of 2025 is an endeavor to protect a public trust, or an attempt to vindicate a private claim beneath the mantle of public charity?

9. Before the merits are reached, the threshold must be crossed, and the threshold here is the reach of this Court's power under Article 227 of the Constitution of India which is a power of superintendence, and its virtue lies in its restraint. It does not make the High Court a court of appeal over every order of a subordinate court. The Supreme Court in ***Shalini Shyam Shetty v. Rajendra Shankar Patil***[8] has drawn its boundaries with precision. This Court may intervene where a subordinate court has assumed a jurisdiction it does not possess or has refused a jurisdiction it does possess, or has acted in such flagrant disregard of the law as to occasion manifest injustice. Errors of fact, and the choice between two plausible views, lie beyond its province. Leave under Section 92 is no routine procedural step rather it is the gateway through which such a suit may enter the court. A suit admitted through

[8] (2010) 8 SCC 329

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that gateway without the correct legal test being applied, is a suit standing on a foundation the law has not laid. The Trust, its funds and its institutions are then exposed to the very harassment the provision was designed to prevent. An error at this threshold is an error that touches the competence of the proceeding itself. Such an error invites, and indeed demands, the corrective hand of this Court under Article 227. In ***Shalini Shyam Shetty (supra)*** the Supreme Court has observed that:

> *"42. Chief justice Harries in the Full Bench decision in Dalmia (supra) stated the principles on which the High Court can exercise its power under Article 227 very succinctly which, we would better, quote:*
>
> > *"6. Though this Court has a right to interfere with decisions of Courts and tribunals under its power of superintendence, it appears to me that that right must be exercised most sparingly and only in appropriate cases. The matter was considered by a Bench of this Court in Manmathanath v. Emperor, AIR 1933 Cal 132. In that case a Bench over which Sir George Rankin C. J. presided held that Section 107, Government of India Act (which roughly corresponds to Article 227 of the Constitution), does not vest the High Court with limitless power which may be exercised at the Court's discretion to remove the hardship of particular decisions. The power of superintendence it confers is a power of a known and well-recognised character and should be exercised on those judicial principles which give it its character. In general words, the High Court's power of superintendence is a power to keep subordinate Courts within the bounds of their authority, to see that they do what their duty requires and that they do it in a legal manner."*

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43. In stating the aforesaid principles, Chief Justice Harries relied on what was said by Chief Justice George Rankin in Manmatha Nath Biswas vs. Emperor reported in AIR 1933 Calcutta 132. At page 134, the learned Chief Justice held:

> *"...superintendence is not a legal fiction whereby a High Court Judge is vested with omnipotence but is as Norman, J., had said a term having a legal force and signification. The general superintendence which this Court has over all jurisdiction subject to appeal is a duty to keep them within the bounds of their authority, to see that they do what their duty requires and that they do it in a legal manner. It does not involve responsibility for the correctness of their decisions, either in fact or law."*

62. *On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:*

> *(a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by High Court under these two Articles is also different.*
>
> *(b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of Superintendence on the High Courts under Article 227 and have been discussed above.*
>
> *(c) High Courts cannot, on the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or Courts inferior to it. Nor can it, in exercise of this power, act as a Court of appeal over the orders of Court or tribunal subordinate to it. In cases where an alternative statutory mode of*

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redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of its power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh (supra) and the principles in Waryam Singh (supra) have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in Waryam Singh (supra), followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and Courts subordinate to it, `within the bounds of their authority'.

(f) In order to ensure that law is followed by such tribunals and Courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of tribunals and Courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or Courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

(i) High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has

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been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in the case of L. Chandra Kumar vs. Union of India & others, reported in (1997) 3 SCC 261 and therefore abridgement by a Constitutional amendment is also very doubtful.

(j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.

(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this Article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

(m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and Courts subordinate to High Court.

(n) This reserve and exceptional power of judicial intervention is not to be exercised just for grant of

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relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above.

(o) An improper and a frequent exercise of this power will be counter-productive and will divest this extraordinary power of its strength and vitality.""

10. Likewise, Sub-section (1) of Section 92 provides that in the case of any alleged breach of an 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 such a trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the leave of the Court, may institute a suit for any of the reliefs set out in clauses (a) to (h). Sub-section (2) closes every other avenue that is no suit claiming those reliefs in respect of such a trust may be instituted except in conformity with sub-section (1).

11. Before the Code of Civil Procedure (Amendment) Act, 1976, the gatekeeper was the Advocate-General, whose written consent was required. Parliament replaced him with the Court. The guard has been changed but the gate remained. The scrutiny check passed from an executive officer to a judicial forum and while passing it acquired the discipline of judicial reasoning.

12. In fact, the purpose of that scrutiny was explained by the Supreme Court in ***Vidyodaya Trust (supra)*** wherein it has been observed that a public trust exists for the public. Its funds are meant for charity or

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worship in case of religious trust. Every rupee spent on litigation is a rupee taken away from the sick, the student and the devotee. And if trustees are dragged from court to court at the instance of every disgruntled claimant, honest men and women will shrink from the burden of trusteeship. Section 92 is the shield that protects the charity from this attrition.

13. The true character of a legal proceeding is revealed not by the name it bears, but by the purpose it seeks to serve. A suit under Section 92 of the Code is no exception. It is a representative proceeding of a special nature, instituted not to vindicate private rights, but to protect the public interest in a charitable or religious trust. The plaintiffs approach the Court as representatives of the public, not as individuals seeking redress for personal grievances. In ***Mahant Pragdasji Guru Bhagwandasji v. Ishwarlalbhai Narsibhai***[9]***,*** the Supreme Court recognized this distinctive character of the provision. In ***Swami Paramatmanand Saraswati v. Ramji Tripathi***[10]***,*** it clarified that Section 92 has no application where the plaintiffs seek to enforce their own individual rights or those of persons in whom they are personally interested. The distinction was further explained in ***Sugra Bibi v. Hazi Kummu Mia***[11]***,***wherein the Supreme Court has held that neither the involvement of a public trust nor the mere inclusion of reliefs enumerated under sub-section (1) is sufficient to attract the provision.

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[9] AIR 1952 SC 143
[10] 1974 AIR 2141
[11] 1969 AIR 884

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The decisive consideration is the object and substance of the suit. A private dispute does not acquire the character of a public cause merely because it is brought in the name of a charitable trust. It is this distinction between the assertion of a private right and the protection of a public interest that lies at the heart of Section 92.

14. The principles governing the application of Section 92 of the Code were more focused by the Supreme Court in ***Operation Asha v. Shelly Batra***[12] **.** Drawing upon the exposition in ***Ashok Kumar Gupta & Anr. v. M/s Sitalaxmi Sahuwala Medical Trust & Ors***[13]**.,** the Court reiterated three essential requirements: first, the trust must be one created for a public purpose of a charitable or religious nature; secondly, there must be an alleged breach of trust or a necessity for judicial intervention in its administration; and thirdly, the relief sought must be one contemplated under sub-section (1) of Section 92. These conditions are cumulative, and the absence of any one of them renders the provision inapplicable. The Opposite Parties, placing reliance on ***Kintali China Jaganadham v. K. Laxmi Naidu***[14] invoke the same principles, with particular emphasis on the representative character of the proceeding, which must be instituted in the interest of the public rather than for the vindication of private rights. Thus, the parties are not divided over the law; they differ only in its application to the facts of the case. The question, therefore, is whether the suit, judged by the substance of its pleadings and the nature of the reliefs claimed, bears the character of a

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[12] 2025 LiveLaw (SC) 775
[13] (2020) 4 SCC 321
[14] (1987) 2 ORISSA LR 262

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genuine representative action for the protection of a public trust or is, in essence, a private dispute brought within the framework of Section 92.

15. Learned counsel for the Opposite Parties rightly reminds this Court that the maintainability of a suit under Section 92 is to be judged on the allegations in the plaint, and not on the defence set up in the written statement which is resonated in ***Charan Singh v. Darshan Singh***[15], which have been reaffirmed in ***Harendra Nath Bhattacharya v. Kaliram Das***[16]. At the stage of leave, the Court does not try the truth of the allegations. The rule in ***Charan Singh(supra)*** prescribes the Court as to what to read, it does not tell the Court to read without discernment. The true character of a suit must be gathered from the plaint read as a whole, with particular regard to its dominant purpose and the nature of the reliefs sought. It is the substance of the claim, rather than the form in which it is presented, that determines whether the suit falls within the ambit of Section 92 of the Code. It was upon such an examination that the Supreme Court, in ***Charan Singh (supra***), found that the plaintiffs were not seeking to enforce any personal right, but merely to compel the trustees to discharge their obligations towards an object of the trust. The suit was thus directed towards the fulfilment of a public obligation rather than the vindication of a private grievance.

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[15] (1975) 1 SCC 298

[16] 1972 AIR 246

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16. In ***Mahant Pragdasji Guru Bhagwandasji v. Patel Ishwarlalbhai Narsibhai*** (supra), the Supreme Court observed as follows:

> *"A suit under section 92, Civil Procedure Code, is a suit of a special nature which presupposes the existence of a public trust of a religious or charitable character. Such suit can proceed only on the allegation that there is a breach of such trust or that directions from the court are necessary for the administration thereof, and it must pray for one or other of the reliefs that are specifically men- tioned in the section. It is only when these conditions are fulfilled that the suit has got to be brought in conformity with the provision of section 92, Civil Procedure Code. As was observed by the Privy Council in Abdur Rahim v. Barkat Ali(1), a suit for a declaration that certain property appertains to a religious trust may lie under the general law but is outside the scope of section 92, Civil Procedure Code. In the case before us, the prayers made in the plaint are undoubtedly appropriate to the terms of section 92 and the suit proceeded on the footing that the defendant, who was alleged to be the trustee in respect of a public trust, was guilty of breach of trust. The defendant denied the existence of the trust and denied further that he was guilty of misconduct or breach of trust. The denial could not certainly oust the jurisdiction of the court, but when the courts found concurrently, on the evidence adduced by the parties, that the allegations of breach of trust were not made out, and as it was not the case of the plaintiffs, that any direction of the court was necessary for proper adminis- tration of the trust, the very foundation of a suit under section 92, Civil Procedure Code, became wanting and the plaintiffs had absolutely no cause of action for the suit they instituted. In these circumstances, the finding of the High Court about the existence of a public trust was wholly inconsequential and as it was (1) (1928) 55 I.A. 96, unconnected with*

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the grounds upon which the case was actual- ly disposed of, it could not be made a part of the decree or the final order in the shape of a declaratory relief in favour of the plaintiffs. It has been argued by the learned counsel for the respondents that even if the plaintiffs failed to prove the other allegations made in the plaint, they did succeed in proving that the properties were public and charitable trust properties--a fact which the defendant denied. In these circumstances, there was nothing wrong for the court to give the plaintiffs a lesser relief than what they actually claimed. The reply to this is, that in a suit framed under section 92 of the Civil Procedure Code the only reliefs which the plaintiff can Claim and the court can grant are those enumerated specifically in the different clauses of t, he section. A relief praying for a declaration that the properties in suit are trust properties does not come under any of these clauses. When the defendant denies the existence of a trust, a declaration that the trust does exist might be made as ancillary to the main relief claimed under the section if the plaintiff is held entitled to it; but when the case of the plaintiff fails for want of a cause of action, there is no warrant for giving him a declaratory relief under the provision of section 92, Civil Procedure Code. The finding as to the existence of a public trust in such circumstances would be no more than an obiter dictum and cannot constitute the final decision in the suit. The result is that in our' opinion the decision of the High Court should stand, but the decree and the concluding por- tion, of the judgment passed by the trial court and affirmed by the High Court on appeal shall direct a' dismissal of the plaintiff's suit merely without its being made subject to any declaration as to the character of the properties."

17. A similar examination of the plaint led the Supreme Court to a different conclusion in ***Vidyodaya Trust(supra).*** The Court found that, although

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the suit was presented as one intended to protect public rights, its real object was to pursue disputes of a private and personal nature. The appearance of a public cause could not conceal the essentially private character of the litigation. The suit was, therefore, held to fall outside the ambit of Section 92 of the Code. In this light, the submission of learned counsel for the Opposite Parties, in sub-paragraph (xxiii) of their written submissions, that ***Vidyodaya Trust***(supra) supports the maintainability of the suit under Section 92, proceeds on a misreading of the decision. The principle laid down therein is precisely to the contrary. It is not enough that a suit professes to protect a public trust, its true purpose must be the protection of a public interest. It is this principle that bears directly upon the controversy presently before this Court.

18. The principle that emerges is very clear as the language of public interest, however carefully employed, cannot by itself bring a suit within the ambit of Section 92 of the Code. Nor can mere allegations of mismanagement or references to the statutory reliefs determine its character. The Court must look beyond the form of the pleadings to ascertain the real purpose of the litigation. Where the professed concern for a public trust conceals a contest for personal rights or control over its affairs, the suit cannot acquire a representative character merely by invoking the cause of charity. The law looks to the substance of the claim, not the clothing in which it is presented.

19. The Supreme Court has held in so many decisions that the grant of leave is a judicial act, requiring the Court to apply its mind to whether

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a prima facie case for the reliefs under Section 92 is made out, and that notice to the defendants before leave is granted, though not mandatory, is desirable. Leave, then, is a considered judicial satisfaction that the plaint discloses the statutory conditions. It is a safeguard to be exercised with care, and never a rubber stamp affixed to a plaint at its registration.

20. Learned counsel for the Opposite Parties contends that the Petitioner, having opposed the grant of leave, could not afterwards seek its revocation. The contention cannot be accepted. First, the Petitioner's objection to the leave petition bears the date 18.12.2025, the very day on which leave was granted, and nothing in the order dated 24.12.2025 shows that those objections were weighed against the governing tests. Secondly, the question raised strikes at the competence of the suit itself since Sub-section (2) of Section 92 forbids any suit for the enumerated reliefs except in conformity with sub-section (1). If the plaint does not disclose a representative suit for a public purpose, no order of leave can clothe it with a character that the statute denies it. A defendant cannot be barred from showing that the statutory foundation of the suit is missing merely because an earlier objection was brushed aside without reasons. Whether the challenge is aimed at the grant of leave or at the refusal to revoke it, the question before this Court is the same that is whether the plaint satisfy Section 92.

21. In this context, reference may be made to the decision of the Supreme Court in ***R.M. Narayana Chettiar v. N. Lakshmanan Chettiar***[17], wherein the Court, while examining the procedure

[17] (1991) 1 SCC 48.

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governing the grant of leave under Section 92 of the Code and the right of the proposed defendants to seek its revocation, observed as follows:

> *"A plain reading of Section 92 of the Code indicates that leave of the court is a pre-condition or a condition precedent for the institution of a suit against a public trust for the reliefs set out in the said section; unless all the beneficiaries join in instituting the suit, if such a suit is instituted without leave, it would not be maintainable at all. Having in mind the objectives underlying Section 92 and the language thereof, it appears to us that, as a rule of caution, the court should normally, unless it is impracticable or inconvenient to do so, give a notice to the proposed defendants before granting leave under Section 92 to institute a suit. The defendants could bring to the notice of the court for instance that the allegations made in the plaint are frivolous or reckless. Apart from this, they could, in a given case, point out that the persons who are applying for leave under Section 92 are doing so merely with a view to harass the trust or have such antecedents that it would be undesirable to grant leave to such persons. The desirability of such notice being given to the defendants, however, cannot be regarded as a statutory requirement to be complied with before leave under Section 92 can be granted as that would lead to unnecessary delay and, in a given case, cause considerable loss to the public trust. Such a construction of the provisions of Section 92 of the Code would render it difficult for the beneficiaries of a public trust to obtain urgent interim orders from the court even though the circumstances might warrant such relief being granted. Keeping in mind these considerations, in our opinion, although, as a rule of caution, court should normally give notice to the defendants before granting leave under the said section*

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to institute a suit, the court is not bound to do so. If a suit is instituted on the basis of such leave, granted without notice to the defendants, the suit would not thereby be rendered bad in law or non-maintainable. The grant of leave cannot be regarded as defeating or even seriously prejudicing any right of the proposed defendants because it is always open to them to file an application for revocation of the leave which can be considered on merits and according to law."

22. The aforesaid observations clarify that the grant of leave under Section 92 of the Code does not preclude the proposed defendants from seeking its revocation and that such an application is required to be considered on its merits and in accordance with law.

23. This Court is equally mindful of the caution in ***Operation Asha*** **(supra)** that at the stage of leave the Court neither adjudicates merits nor confers substantive rights. This Court therefore expresses no view on the allegations of forgery, fabricated resolutions, financial irregularity or wrongful disqualification which each side hurls at each other. Those are matters for trial in a proper proceeding. The present case is confined to one question only that is what is the true character of the suit as pleaded.

24. Vigyan Bharati Charitable Trust is a public trust dedicated to charitable and educational purposes which is beyond any dispute. The first requirement of Section 92 of the Code thus stands satisfied. However, the public character of a trust does not necessarily lend a public character to every dispute concerning its affairs. The Court must, therefore, look beyond the rival claims and ascertain the true purpose of the suit. Is it a genuine endeavor to preserve the charity and protect

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the interests of those for whose benefit it was founded, or merely a struggle between two rival groups of trustees for control over its administration? The distinction is vital, since Section 92 is a safeguard for public charity, not a weapon in private battle for ownership and power. It is in this light that the plaint is required to be examined. If one traces the background of the litigation, the history of the proceedings tells its own story. The dispute sprang from rival resolutions and rival amendments of the Trust Deed. The Plaintiffs rely on a resolution removing the Petitioner as Chairman and Defendant No.2 as Managing Trustee, and on the amended Trust Deed registered on 09.05.2025. The Petitioner relies on the resolution disqualifying Plaintiff Nos.2 and 3 with effect from 10.05.2025, and on the registered Trust Deed dated 15.05.2025. The Plaintiffs first instituted C.S. No.1193 of 2025 and then C.S. No.1563 of 2025 before the learned Civil Judge (Jr. Div.), Bhubaneswar, as ordinary suits for declaration and injunction. Section 92 was invoked only after the Petitioner moved an application under Order VII Rule 11 of the Code. Section 92 thus entered this litigation as a patch for a defect pointed out by the adversary. It did not enter as the voice of the beneficiaries.

25. Further, the paragraph 17 of the plaint, extracted earlier, sets out the cause of action that is the registration of the amended Trust Deed on 09.05.2025, the letter dated 10.05.2025 disqualifying Plaintiff Nos.2 and 3, the alleged attempts to disturb the suit schedule property, and the obtaining of a certified copy of the rival amended Trust Deed. Every one of these events concerns the competing claims of the two camps to

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office and control. The disqualification of Plaintiff Nos.2 and 3 is pleaded as a principal cause of action. Behind every public trust stand the hopes of those for whose benefit it was founded. Its classrooms belong to the dreams of children, its healing hands to the suffering of patients, and its charitable mission to the welfare of the community. The trustees are the custodians of that larger promise and their office owe a responsibility to the society being a public trust and not a personal possession. A grievance over removal from trusteeship, however deeply felt, remains essentially a dispute over an individual right unless it reveals an injury to the charity itself. In the present case, the plaint discloses no specific instance where a student has been denied education, a patient deprived of care, or the public denied the benefits for which the Trust exists. The grievance centres on the loss of office, not the failure of charity. Section 92 of the Code is concerned with the latter, not merely with the former.

26. A careful reading of the plaint reveals that the dispute essentially concerns the rival claims of two groups to the management of the Trust. The principal reliefs sought are declarations that the resolutions and Trust Deed relied upon by the Plaintiffs are valid, while those of the rival group, including the Trust Deed dated 15.05.2025, are invalid, together with consequential injunctions. Learned counsel for the Opposite Parties, however, submits that the suit also seeks removal and appointment of trustees and rendition of accounts, being reliefs expressly contemplated under clauses (a), (b) and (d) of Section 92(1) of the Code. But the nature of a suit cannot be determined merely by the

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reliefs mentioned in the prayer. The Court must ascertain the purpose for which those reliefs are sought. If the object is to protect the Trust and the interests of its beneficiaries, Section 92 may be attracted. If, however, the real object is to establish the authority of one group of trustees over another, the dispute remains essentially private, notwithstanding the form of the reliefs claimed. It is this distinction that must guide the determination of the suit's true character.

27. The submission, however, overlooks a fundamental distinction between the reliefs contemplated under clauses (a) and (b) of Section 92(1) of the Code and those actually sought in the present suit. These provisions empower the Court to remove or appoint trustees where there is a breach of trust or the necessity of judicial intervention in its administration so requires. The Plaintiffs, however, do not seek the removal of the Petitioner and Defendant No. 2 by a decree of the Court upon an examination of their conduct. Their case is that the removal has already been effected by resolutions passed by them, and what they seek is a judicial declaration affirming the validity of those resolutions. At the same time, they seek to invalidate the resolutions by which they themselves were disqualified. Thus, the controversy is not whether the interests of the Trust require the removal or appointment of trustees but which of the rival groups has lawfully exercised that authority. The distinction is significant. A suit seeking judicial intervention for the proper administration of a public trust is one thing; a suit seeking judicial recognition of one group's authority over another is quite another. The latter, when essentially directed towards vindicating

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personal rights to trusteeship or management, does not acquire the character of a representative proceeding merely because the dispute concerns a public trust. This is the principle underlying the decisions in ***Swami Paramatmanand Saraswati (supra) and Vidyodaya Trust (supra)***. Nor, as explained in ***Sugra Bibi (supra),*** does the inclusion of prayers resembling the reliefs enumerated in Section 92(1) alter the essential character of the suit. The decisive consideration remains its dominant purpose. Examined in that light, the present suit is, in substance, a contest between rival groups for control over the management of the Trust, rather than a proceeding instituted to protect its charitable objects or the interests of its beneficiaries.

28. The allegations of mismanagement must now be examined in their proper context. Learned counsel for the Opposite Parties has drawn the attention of this Court to paragraphs 5, 6, 9, 10, 11, 13 and 15 of the plaint, wherein allegations have been made concerning financial irregularities, refusal to convene meetings, operation of bank accounts despite removal from office, fabrication of backdated documents, irregular induction of a trustee and attempts to alter the character of the Trust. These allegations, though serious in nature, must be understood in the light of the dispute disclosed by the plaint as a whole. On a careful reading, they appear principally to justify the resolutions by which the Plaintiffs claim to have removed the rival trustees and to challenge the authority thereafter exercised by them. Indeed, allegations concerning the operation of bank accounts after removal, or the continued assertion of authority as Chairman, necessarily proceed

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upon the assumption that the Plaintiffs' resolutions were valid. Thus, the alleged acts of mismanagement are closely intertwined with the rival claims to trusteeship and control over the Trust. They are not advanced as an independent foundation for seeking judicial intervention in its administration for the benefit of the public. The distinction is not between serious and trivial allegations, but between a grievance concerning the administration of a public charity and one concerning the right to administer it. In the present case, the allegations, viewed alongside the principal reliefs sought, appear directed towards establishing the authority of one group of trustees over another. This is precisely the distinction emphasized by the Supreme Court in ***Vidyodaya Trust (supra),*** where the language of public interest was held insufficient to bring an essentially private dispute within the ambit of Section 92 of the Code.

29. Another feature of the plaint assumes significance as the Trust itself has been arrayed as Plaintiff No. 1, represented by the very group of trustees whose authority to manage its affairs is in dispute. In ***Ghat Talab Kaulan Wala v. Gopal Dass Chela Shurti Das***[18], the Supreme Court has explained that Section 92 of the Code contemplates a representative suit instituted by persons interested in a public trust, upon an alleged breach of trust or the necessity of judicial direction for its administration, and that the procedure prescribed therein does not govern a suit instituted by the trust itself.

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30. Learned counsel for the Opposite Parties rightly points out that the factual setting of that decision was different, the suit having been instituted by a trust against a sevadar. That distinction, however, does not diminish the relevance of the underlying principle. In the present case, one group of trustees has instituted the suit in the name of the Trust against another group, each asserting the lawful authority to manage its affairs. The controversy, therefore, is not merely about the administration of the Trust, but about who is entitled to represent and control it. The Trust's presence as a plaintiff does not, by itself, give the suit a representative character when the very authority to speak on its behalf is the subject of dispute. Nor does it convert the Plaintiffs' claim to trusteeship into a cause pursued on behalf of the beneficiaries. Rather, the manner in which the suit has been instituted reinforces the conclusion that its dominant object is to secure judicial recognition of one group's authority over the other, and not to invoke the protective jurisdiction of the Court under Section 92 for the benefit of the public.

31. The decisions in ***Sangram Mudali (supra)*** and ***Kintali China Jaganadham (supra)*** restate the conditions for invoking Section 92 and apply them to the reliefs in those cases. They do not touch the decisive question here, which is whether the suit, read as a whole, is representative in character. On that question, the binding pronouncements of the Supreme Court in ***Sugra Bibi(supra), Swami Paramatmanand(supra) and Vidyodaya Trust(supra)*** govern the field.

32. Having read the plaint as a whole, this Court is satisfied that the suit, though it concerns a public charitable trust and speaks the language of

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Section 92, is in substance a contest between rival groups of trustees for the management and control of the Trust, founded on competing resolutions and competing amendments of the Trust Deed. The indispensable requirement that the suit be representative in character, instituted to vindicate the rights of the public, is absent. As ***Operation Asha(supra)*** makes it clear that the failure of a single essential condition is sufficient to take the suit outside scope of Section 92.

33. The reasoning of the learned District Judge, extracted at paragraph 6 above, rests on one finding that the pleadings reveal a dispute regarding the administration of the Trust and the management of its accounts. That finding answers a question that the law does not ask as to every quarrel between rival trustees over who shall manage a trust can be described as a dispute about its administration. If that description were enough, the line drawn by the Supreme Court between representative suits for public rights and suits for private rights would be erased altogether. The learned District Judge did not inquire as to whether the suit was representative in character. He did not apply his mind to identify its dominant purpose and its causal link with the present lis. He did not examine the cause of action pleaded in paragraph 17 or the nature of the reliefs sought. The order invokes ***Charan Singh(supra) and R.M. Narayana Chettiar (supra)*** but it neither undertakes the reading of the plaint that the first demands nor displays the application of mind that the second requires.

34. The impugned order thus fails to apply the governing legal test to the plaint, and in consequence permits a suit lacking the essential character

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required by Section 92 to proceed under that provision. This is an error that goes to the root of jurisdiction. It cannot be allowed to stand.

35. For the reasons recorded above, this Court holds that an order granting leave, or refusing to revoke leave, under Section 92 of the Code is open to correction under Article 227 of the Constitution where the Court below has failed to apply the correct legal test, because leave is a statutory condition precedent to the institution of the suit. The maintainability of a suit under Section 92 is to be judged on the plaint alone, read as a whole and in substance, to determine whether its dominant purpose is the vindication of public rights in the trust. The mere invocation of the enumerated reliefs does not suffice. Further, the plaint in C.S. No.19 of 2025 discloses, in substance, a contest between rival groups of trustees for the management and control of the Trust, and does not disclose a suit of a representative character instituted to vindicate the rights of the public. Accordingly, the order dated 18.12.2025 granting leave, and the order dated 24.12.2025 refusing to revoke it, are unsustainable in law.

VI. CONCLUSION:

36. In view of the above discussion and analysis of law and fact, CMP No.236 of 2026 is allowed, and it is ordered as follows:

(i) The order dated 24.12.2025 passed by the learned District Judge, Bhubaneswar, Khordha in I.A. No.02 of 2025 arising out of C.S. No.19 of 2025 is set aside, and I.A. No.02 of 2025 is allowed.

(ii) The leave granted under Section 92 of the Code by order dated 18.12.2025 in C.S. No.19 of 2025 is revoked.

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(iii) As a necessary consequence, C.S. No.19 of 2025, which was instituted on the strength of that leave, is not maintainable as a suit under Section 92 of the Code and stands dismissed on that ground alone.

(iv) The dismissal of C.S. No.19 of 2025 shall not preclude the Plaintiffs from pursuing, in accordance with law, such remedies as are available to them for the adjudication of their individual claims regarding the resolutions, the Trust Deeds and their status as trustees. If they do so, it shall be open to them to claim the benefit of Section 14 of the Limitation Act, 1963, if available in law.

(v) Nothing in this judgment shall be construed as an expression of opinion on the validity of the rival resolutions or Trust Deeds, the allegations of forgery, fraud or financial irregularity, or the respective claims of the parties to office in the Trust. Any court or forum seized of those questions shall decide them on their own merits, uninfluenced by any observation made herein.

(vi) The connected CMPs, which arise out of the same impugned order, are **allowed** in the same terms. There shall be no order as to costs.

37. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 30th October, 2026/-

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