WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13-11-2026

PRONOUNCED ON : 20-11-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR

Case QR

OSA No. 230 of 2013

CNR:{HCMA010446832013}

AND

OSA NO. 345 OF 2013, OSA NO. 127 OF 2019, OSA NO. 197 OF 2022

and

CMP NO. 11308 OF 2019, CMP NO. 12019 OF 2022, CMP NO. 16879 OF 2025, CMP NO. 21577 OF 2025,

CMP NO. 22153 OF 2025, MP No.1 of 2013

OSA No.230 of 2013 :

1. The Southern Railway Mazdoor
   Union, Rep By its General Secretary N.Kanniah
   193-B Railway Colony, Egmore,
   Chennai-600008.
2. C.A.Rajasridhar
   S/o Cd.Anantha Krishnan No.35 Maleeshwarar
   Koil St Mylapore Ch

3. P.Kumaresan
   S/o P.M.Palanivelu 116-b Railway Colony
   Egmore Ch

..Appellant(s)

Vs

1. Mazdoor Welfare Trust
   Rep By Its Managing Trustee N.V.Devi
   No.11-A/27 Alamelumangapuram 2nd St.,
   Chennai-600 004.
2. Smt N.V.Devi
   Managing Trustee

https://www.mhc.tn.gov.in/judis

WEB COPY

No.11-A/27 Alamelumangapuram 2nd St
Chennai-600 004.

3. G.Vadivelu
Trustee -mazdoor Welfare Trust
No.11-A/27 Alamelumangapuram 2nd St
Chennai-600 004.

4. Thirumathi N.V.Usha
Trustee Mazdoor Welfare Trust
227 Gardhawani Kochin House Road
Hemambika Nagar, Palghat, Kerala.

5. S.Thamilarasan
Trustee Mazdoor Welfare Trust
No.2 Xavier Street, Thanjavur

6. Anjalai Ammal Mahalingam Engineering College, Rep By its Correspondent
Kovilvenni, Thiruvarur district.

..Respondent(s)

OSA No. 345 of 2013

Case QR

CNR:{HCMA010448142013}

N.V.Usha
Trustee-Mazdoor Welfare Trust
227 Garudhwani Kochin House,
Hemambika Nagar, Palghat, Kerala

..Appellant(s)

Vs

1. The Southern Railway
Mazdoor Union Rep By Its General Secretary
N.Kanniah
193-B Railway Colony,
Egmore, Chennai-600 008
2. C.A.Raja Sridhar
S/o C.D.Anantha Krishnan
No.35 Maleeshwarar Koil St.,
Mylapore Chennai-600004

https://www.mhc.tn.gov.in/judis

WEB COPY

3. P.Kumaresan
   S/o P.M. Palanivelu,
   116-B Railway Colony Egmore,
   Chennai-600008

4. Mazdoor Welfare Trust
   Rep By Its Managing Trustee N.V.Devi
   No.11-A/27 Alamelumangapuram 2nd Street
   Chennai-600004

5. Smt N.V.Devi
   Managing Trustee
   No.11-A/27 Alamelumangapuram 2nd Street
   Chennai-600004

6. Thiru G.Vadivelu
   Trustee Mazdoor Welfare Trust
   No.11-A/27 Alamelumangapuram 2nd Street
   Chennai-600004

7. S.Thamilarasan
   Trustee Mazdoor Welfare Trust
   No.2 Xavier Street, Thanjavur

8. Anjalai Ammal Mahalingam
   Engineering College
   Rep By Its Correspondent, Kovilveni
   Thiruvarur District

..Respondent(s)

Case QR

OSA No. 127 of 2019

CNR:{HCMA013141852013}

G.Vadivelu
Trustee Mazdoor Welfare Trust,
No.11-A/27 Alamelumangapuram 2nd Street,
Chennai 600 004.

..Appellant(s)

Vs

1. The Southern Railway Mazdoor Union
   Rep By Its General Secretary N.Kanniah,

https://www.mhc.tn.gov.in/judis

WEB COPY

191-B, Railway Colony, Egmore,
Chennai 600 008.

2. C.A. Raja Sridhar
S/o. Anantha Krishnan,
No.35, Maleeshwarar Koil Street, Mylapore
Chennai 600 004.

3. P.Kumaresan
S/o. P.M. Palanivelu, 116-B, Railway Colony,
Egmore, Chennai 600 008

4. Mazdoor Welfare Trust,
Rep By Its Managing Trustees, N.V. Devi,
No.11-A/27, Alamelumangapuram 2nd St,
Chennai 600 004.

5. N.V. Devi
Managing Trustee,
No.11-A/27, Alamelumangapuram 2nd Street,
Chennai 600 004.

6. Thirumathi N.V. Usha
Trustee Mazdoor Welfare Trust
227, Garudhwani, Kochin House Road,
Hernamblga Nagar, Palghat, Kerala

7. S.Thamilarasan
Trustee Mazdoor Welfare Trust,
No.2, Xavier St, Thanjavur

8. Anjalai Ammal Mahalingam Engineering
College,
Rep By Its Correspondent, Kovilvenni
Thiruvarur Dist

..Respondent(s)

Case QR

OSA No. 197 of 2022

CNR:{HCMA013142502013}

1. Mazdoor Welfare Trust
Rep. by its Managing Trustees, N.V.Devi,

https://www.mhc.tn.gov.in/judis

WEB COPY

No.11-A/27, Alamelumangapuram 2nd Street,
Chennai-600004

2. N.V. Devi
Managing Trustee, Mazdoor Welfare Trust,
No.11-A/27, Alamelumangapuram 2nd Street,
Chennai-600004

..Appellant(s)

Vs

1. The Southern Railway Mazdoor Union
Rep. by its General Secretary N.Kanniah,
191-B, Railway Colony, Egmore,
Chennai-600008
2. C.A. Raja Sridhar
S/o.Anantha Krishnan,
No.35, Maleeshwarar Koil Street, Mylapore,
Chennai-600004

3. P.Kumaresan
S/o. P.M.Palanivelu,
116-B, Railway Colony, Egmore,
Chennai-600008

4. Thiru G. Vadivelu
Trustee-Mazdoor Welfare Trust
No.11-A /27, Alamelumangapuram 2nd Street,
Chennai-600004

5. Thirumathi N.V. Usha
Trustee Mazdoor Welfare Trust,
227 Garudhwani, Kochin House Road,
Hernamblga Nagar, Palghat, Kerala

6. Thiru S. Thamilarasan
Trustee Mazdoor Welfare Trust,
No.2, Xavier Street, Thanjavur

7. Anjalai Ammal Mahalingam Engineering
College
Rep. by its Correspondent, Kovilvenni,
Thiruvarur District

..Respondent(s)

https://www.mhc.tn.gov.in/judis

WEB COPY

OSA No.230 of 2013 is preferred under Order XXXVI Rule 1 of the Original Side Rules read with Clause 15 of the Letters Patent seeking to allow the OSA by modifying the judgment and decree dated 07.06.2013 passed in C.S.No.160 of 2004 on the file of this Court by modifying Sub clause III and VI(m) of the Scheme and pass appropriate orders and thus render justice.

OSA No.345 of 2013 is preferred under Order XXXVI Rule II of the Original Side Rules read with Clause 15 of the Letters Patent seeking to allow the original side appeal by modifying the judgment and decree dated 07.06.2013 passed in C.S.No.160 of 2004 so far as the composition of the trust board is concerned and pass appropriate orders and justice be rendered.

OSA No.127 of 2019 is preferred under Order XXXVI Rule 11 of the Original side Rules read with clause 15 of the Letters Patent seeking to allow the OS appeal by modifying the judgment and decree dated 07/06/2013 passed in C.S.No.160/2004 on the file of this Hon'ble Court and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

This OSA No.197 of 2022 is preferred under Order XXXVI Rule 1 of the Original Side Rules read with Clause 15 of the Letters Patent seeking to allow the OSA by modifying the judgment and decree dated 07.06.2013 passed in C.S.No.160 of 2004 on the file of this Court and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

https://www.mhc.tn.gov.in/judis

2026:MHC:4657

Order QR

WEB COPY

For Appellant(s): Mr.A.L.Somayaji, Senior Advocate
for Mr.A.Jenasenan for 1st appellant
Mr.R.Parthasarathy, Senior Advocate
for Mr.A.Jenasenan for 2nd and 3rd appellants
in OSA No.230 of 2013

Mr.M.Balasubramanian in OSA No.345 of 2013

Mr.S.Mukunth, Senior Advocate
for Mr.P.Raja in OSA No.127 of 2019

Mr.P.Sesubalan Raja
for Mr.S.J.Mohamed Sathik
in OSA No.197 of 2022

For Respondent(s): Mr.P.Sesubalan Raja
for Mr.S.J.Mohamed Sathik
for RR1 and 2 in OSA No.230 of 2013;
for RR4 and 5 in OSA No.345 of 2013;
and for RR4 and 5 in OSA No.127 of 2019

Mr.M.Balasubramanian
for R4 in OSA No.230 of 2013
for R6 in OSA No.127 of 2019

Mr.K.Harishankar for R5 in OSA No.230 of 2013;
for R7 in OSA No.127 of 2019
for R-6 in OSA No.197 of 2022

Mr.V.K.Sathiamurthy for R-6
in OSA No.230 of 2013

Mr.C.K.Chandrasekar for R-1
in OSA Nos.345 of 2013 and 127 of 2019

Mr.R.Parthasarathy, Senior Advocate
for Mr.A.Jenasenan for RR2 and 3
in OSA Nos.345 of 2013 and 127 of 2019

Mr.A.L.Somayaji, Senior Advocate
for Mr.A.Jenasenan for R-1
in OSA No.197 of 2022

https://www.mhc.tn.gov.in/judis

2026:MHC:4657

Order QR

WEB COPY

Mr.R.Parthasarathy, Senior Advocate
for Mr.A.Jenasenan for RR2 and 3
in OSA No.197 of 2022

Common Judgment

N.Sathish Kumar J.

Challenging the judgment and decree of the learned single judge made in C.S.No.160 of 2004 dated 07.06.2013 whereby a scheme was framed for the effective administration and management of the affairs of the trust, the present four original side appeals have been preferred by the respective parties against some of the findings rendered in the above judgment and with regard to the composition of trust board.

2.O.S.A.No.230 of 2013 has been filed by the Southern Railway Mazdoor Union and two others seeking to modify the sub-clause III and VI(m) of the scheme, while O.S.A.No.345 of 2013 has been preferred by one N.V.Usha, the trustee of the Mazdoor Welfare Trust challenging the findings in issue no.2 providing one representative of the family of the founder to be on the board of trustees, composition of the trust board and restricting the number of persons to be on the Board representing the first plaintiff union. O.S.A.No.127 of 2019 is filed by one G.Vadivelu, a trustee of the Mazdoor Welfare Trust and O.S.A.No.197 of 2022 has been preferred by the Mazdoor Welfare Trust and

https://www.mhc.tn.gov.in/judis

WEB COPY

one N.V.Devi, Managing Trustee of the Trust against the judgment and decree of the learned single judge and for modification of the judgment and decree dated 07.06.2013.

3.The parties in these original side appeals are referred to by their rank before the learned Single Judge.

4.The brief facts of the case can be stated for the disposal of these four appeals and they are as follows:

4.1.A trust, by name, Mazdoor Welfare Trust was founded by one M.Namasivayam, who was the then General Secretary of the Southern Railway Mazdoor Union, in the year 1987. The trust was founded to establish an educational institution for the benefit of the railwaymen and it was a public charitable trust. The members of the union have contributed to the trust. The trust has purchased 60 acres of land for establishing an engineering college in Thanjavur. Further, three acres of land belonging to the southern railway was given to the trust. The first defendant Trust was managed by said Namasivayam as its managing-cum-life trustee along with two vice presidents of the first plaintiff union till 1996. After the death of the son of Namasivayam in the year 1997, the said Namasivayam co-opted the 5th defendant who is the son-in-law as the trustee and he was also made as Correspondent of the Engineering college. Thereafter, Namasivayam nominated defendants 2 to 4 as trustees. Namasivayam had also resigned from the post of the Managing Trustee in the year 2000 but continued as life trustee. In February, 2001, Namasivayam went

https://www.mhc.tn.gov.in/judis

WEB COPY

to Haridhwar but never returned back. Thereafter, the defendants 2 to 5 started to siphon the funds of the trust and mismanaged the institution.

4.2.There were acts of misfeasance and malfeasance on the part of defendants 2 to 5. On noticing the maladministration of the college and the trust, the plaintiffs have issued a registered legal notice on 01.09.2003 to defendants calling upon them to induct at least three members of the union in the board of trustees and also to make suitable amendments in the trust deed. A reply notice, dated 24.09.2003 was received from the second defendant that the first plaintiff union had nothing to do with the trust and further, the second defendant claimed Rs.2.75 Crores towards expenses incurred by her for performing some poojas for the return of Namasivayam. Therefore, due to misappropriation, breach of trust and also mismanagement of the affairs of the trust, the suit was filed by the union.

4.3.The stand of defendants 1 and 2 was that this court has no territorial jurisdiction to entertain the suit as the registered office of the Trust is at Thanjavur. The plaintiff union has no interest in the trust and in the engineering college. That apart, the Trust was established by Namasivayam in his individual capacity and not in the capacity as the leader of the plaintiff union. The trust is a public charitable trust. Further, the object of the trust is not only to help the mazdoors working in the railways but it is also to help the people belonging to socially and educationally backward classes. The claim of the plaintiffs that 60 acres of land was purchased by using the contributions of the railwaymen was

https://www.mhc.tn.gov.in/judis

WEB COPY

false but the entire sale consideration was paid out of trust funds. The trust is an independent body and the union has no control over the same. The trust is funded by various philanthropists. Further, the claim to amend the trust deed to include the representatives of the union would go against the terms of the trust deed. Further, the fifth defendant is colluding with the plaintiff. There is no maladministration and breach of trust as averred by the plaintiffs. The third and fourth defendants have adopted the stand of the defendants 1 and 2 in the written statement.

4.4.The fifth defendant's stand was that the trust was founded by Namasivayam with the object of helping and serving the mazdoors working in the railways and also to the people belonging to socially and educationally backward classes. The 6th defendant college was established in Thiruvarur from the contributions of the mazdoors in the southern railway. That apart, when the said Namasivayam was alive, he had instructed the fifth defendant to get instructions from plaintiffs 2 and 3 in respect of the running of the trust. The defendants 2 and 3 wanted to divert the surplus funds of the trust to start a school in Chennai. Despite having surplus funds, defendants 2 and 3 wanted to borrow funds from the bank for construction of the institution. It was the further stand of the fifth defendant that earlier, it was the said Namasivayam, who wrote a letter dated 12.08.1999 requesting the fifth defendant to continue as the Correspondent and wanted that the bank accounts are to be operated by the managing trustee and the fifth defendant. But, after the institution of the suit,

https://www.mhc.tn.gov.in/judis

WEB COPY

the 5th defendant was removed from the board of trustees and also from the post of Correspondent. That apart, it was the stand of the fifth defendant that as several acts committed by defendants 2 and 3 are detrimental to the smooth functioning of the college and therefore, the administration of the trust shall be under the supervision of the court and the same alone would satisfy the objects of the founder of the trust. Therefore, for proper administration of the trust, a scheme has to be framed by the court.

4.5.An interim administrator was appointed by this court during the pendency of the suit, to take charge of the affairs of the trust. Thereafter, criminal complaints were lodged against the second defendant and others for alleged misappropriation, breach of trust, etc., Though the charge sheet has been filed, the same has been stayed on a petition filed by the second defendant and others. Further, the second defendant has also filed an application for the removal of the interim administrator. Thereafter, the main suit was taken up for hearing. Based on the pleadings, the learned single Judge has framed the following issues:

(i)Whether a Scheme for the management and administration of Mazdoor Welfare Trust, which is a public charitable Trust, be framed or not?

(ii)If so, the persons who are entitled to be appointed as Trustees and the nature of the provision to be made for Trusteeship in the first defendant Trust? And

https://www.mhc.tn.gov.in/judis

WEB COPY

(iii)Whether the plaintiffs are entitled to any other relief?

4.6.On behalf of plaintiffs, 120 documents were marked as Exs.P.1 to P.120 and on the side of the defendants, 104 documents were marked as Exs.D.1 to D.104 and out of these 104 documents, Exs.D.1 to D.98 were marked by defendants 1 and 2 and on the side of defendant no.5, Exs.D.99 to D.104 were marked. No oral evidence was adduced by the parties to the suit.

4.7.The learned single judge considered the entire documents and the trust deed and held that the trust is the public charitable trust and therefore, it cannot be allowed to become a family business and further, there was no unity among the family members and hence a scheme needs to be framed and accordingly, framed a scheme. The learned single judge was also of the view that there must be only one representative from the family of the founder at any given point of time in the board of trustees and the workers will be represented in the board of trustees by a person nominated by the first plaintiff union. Accordingly, the suit was decreed and a scheme was framed. These four original side appeals have arisen out of the said preliminary judgment and decree passed by the learned Single Judge.

5.Mr.A.L.Somayaji, learned senior advocate for the union and Mr.R.Parthasarathy, learned senior advocate for Mr.Jenasenan, learned counsel submitted that the Mazdoor Welfare Trust has been founded mainly for establishing educational institution for the benefit of the railway employees by the contribution of the mazdoor union. Each of the members of the union had

https://www.mhc.tn.gov.in/judis

WEB COPY

contributed for the same. That being so, the inclusion and giving representation to the family members of the founder in the board of trustees in the scheme is not proper. It is the further contention of the learned senior counsel that when the entire trust is founded for the benefit of the mazdoor union, more members from the union should be included in the trust. That apart, the establishment of the college was due to the contributions made by the members of the union. Though the learned single judge did not permit defendants 2 to 4 to be the trustees but giving nomination to their children on rotation basis is not fair and proper and further, the appointment of 5th defendant in the trust representing the family should not have been made and he ought not to have been included and that proper representations from the union must be provided in the board of trust.

6.Mr.S.Mukunth, learned senior counsel for defendant no.3 would submit that the plaintiffs union in order to capture the control of the trust has filed the suit. The plaintiffs have not submitted any materials to support their contention of misappropriation and mismanagement of the trust. Further, there is no criminal complaint against the third defendant. The founder has formed the trust with the involvement of the family members. The documents submitted by the defendants 1 and 2 was not properly taken into account.

7.Mr.M.Balasubramanian, learned counsel appearing for the appellant in OSA No.345 of 2013/4th defendant, Trustee one N.V.Usha mainly submitted that absolutely, there is no serious allegations against the 4th defendant. The 4th

https://www.mhc.tn.gov.in/judis

WEB COPY

defendant has not filed any affidavit to consider her act as perjury to keep away from the participation of the trust. According to the learned counsel, the documents Exs.D.1 to D.98 filed on behalf of defendants 1 and 2 have not been properly considered by the learned single judge. That apart, the learned single judge has not considered the contributions made by the founder of the trust for getting the vast extent of land from the villagers in the Kovilvenni. The learned single judge ought to have considered the eligible members from the family of the founder to be in the trust board and therefore, the learned counsel prayed for modification of the judgment of the learned single judge with respect to the composition of the trust board.

8.Mr.P.Sesubalan Raja, learned counsel for defendants 1 and 2 Trust would submit that the entire suit has been filed to establish the private interest rather than the public interest. The trade union President and Secretary are trying to capture the trust which was objected by defendants 1 and 2 and others which resulted in filing the scheme suit. The object of the trust is not only to help and serve the mazdoors employed in the railways but it is also to help the people belonging to socially and educationally backward classes. Even as per the trust deed, there is no provision for the railwaymen to be made as trustees and further, the trade union has no right to be the trustee. Further, the union wanted to interfere with the administration of the trust, thereby intended to take over the administration of the engineering college. That apart, the trust is an

https://www.mhc.tn.gov.in/judis

WEB COPY

independent body and it is not connected with the trade union. Therefore, the very suit itself is not maintainable.

9.Mr.K.Harishankar, learned counsel appearing for the fifth defendant would submit that the learned single judge has considered the entire aspects of the matter and the serious maladministration committed by defendants 2 to 4 in the functioning of the trust and recorded the findings based on the documents. Admittedly, a criminal case has been filed for misappropriation of huge amount against second defendant. This has been clearly recorded by the learned single judge. Hence, the learned counsel would submit that the scheme framed by the learned single judge to be continued.

10.Further, the learned counsel Mr.Sesubalan Raja would submit that if this court is of the view that the scheme framed has adequate number of percentage of the composition, the family members would be given primacy, whereas Mr.A.L.Somayaji, learned senior counsel and Mr.C.K.Chandrasekar, learned counsel would submit that more members from the union should be accommodated in the trust as trustees. It is further submitted that though the learned single judge has named certain persons, due to passage of time, they are more than 80 to 82 years and therefore, their composition as suggested by the learned single judge may not be workable. Hence, it was submitted that a new composition may be included in the trust.

11.In the light of the submissions made by the learned senior counsel and the learned counsel and on perusal of the materials available, the points that

https://www.mhc.tn.gov.in/judis

WEB COPY

arise for consideration in these four original side appeals are as follows:

(a)Whether the Mazdoor Welfare Trust is the public trust or the private trust?

(b)Is there any breach of trust committed by the defendants 2 to 5?

(c)Whether the scheme framed by the learned Single Judge is proper on considering the nature of the breach of trust alleged against the persons in the helm of the trust?

Issue Nos.(a) to (c):

12.This Court considering the nature of the matter and the issues involved in this case, deems it appropriate to consider all the issues together.

13.The suit filed after obtaining leave under section 92 of the CPC is normally termed as representative suit of special nature, since the object of Section 92 is for the protection of public right in public trust and therefore, the parties filing such suit invoking section 92 of CPC are considered to be representatives of the public. Three conditions are required to be satisfied in order to invoke Section 92 of the CPC to maintain an action under the said provision, namely (i)the trust is created for the public purpose of a charitable or religious nature; (ii)there is a breach of trust or a direction of the court is necessary for the administration of such trust and (iii)the relief claimed is one or the other reliefs as enumerated in the said section. If any one of the three conditions is satisfied, the matter would be tested within the scope of section 92 of CPC. Therefore, if any breach of trust is proved or a direction of the court

https://www.mhc.tn.gov.in/judis

WEB COPY

is necessary in the administration of such trust, the suit is very well maintainable.

14.Admittedly, Ex.D.1 the trust deed makes it very clear that the trust is founded by one Namasivayam, residing in Railway colony, Egmore, Chennai and he is the founder of the trust. The other two trustees are one Srinivasan residing in Railway Colony, Egmore, Cennai and one Govindarajan residing in North Railway Colony, Villupuram. The intention of the founder of the trust was only to help and serve the mazdoors working in the railways and the people belonging to socially and educationally backward classes in general and for that object, the founder was desirous of creating a public charitable trust. The very object of the trust was to establish, maintain and administer educational institutions, imparting general education, technical education, medical education, nursing etc.; to organize specialised teaching in different branches of Arts, Science, Medicine and Technology, give instructions in specialised courses in the aforesaid and allied subjects that may be instituted in any of the universities in India; to establish and administer the mazdoor school of trade unionism and impart training and development in industrial relationship and such other allied subjects; to undertake publication of research studies, magazines, periodicals etc., produced by the institutions established by the trust; to hold refresher course, short courses, seminars, conferences and the like on current, social and socio economic problems and on social, economic cultural and educational activity for the benefit of persons engaged in social work and/or

https://www.mhc.tn.gov.in/judis

WEB COPY

in the teaching of the subject relating thereto; to stimulate in the staff and students of the institutions a sense of social scientific and technical awareness and cultural conscience; to organize special coaching and training to poor children and/or provide for free distribution of books, study materials, educational appliances, etc.,; to give financial assistance in the form of books, scholarships, stipend etc., to poor and/or meritorious students and grant and provide for such other financial assistance to the needy as may be considered appropriate; further to give financial assistance or medical relief to the poor and the needy people in distress and to establish, maintain and administer clinics and/or hospitals by employing doctors and other staff to run the same.

15.The very object of the trust under Ex.D.1 makes it very clear that it is only a public charitable trust. The Ex.D.1 was amended thrice under Exs.D.2 to D.4 on 29.03.1988, 10.12.1994 and 28.11.1998 respectively. The first amendment was brought to include certain provisions to bring it in tune with the provisions of the Income Tax Act, 1961 to seek exemption under the Income Tax Act. The second amendment was made with a view to enable the trustees to borrow or accept the deposits from banks and financial institutions. The third amendment dated 28.11.1998 was done to include three clauses in the original deed of trust to enable the founder-cum-life trustee to resign from the office of the managing trustee and to enable the remaining trustees to elect one among them as the managing trustee. In the third amendment, it is also stated that even if the managing trustee resigned from his office, he would continue to be a life

https://www.mhc.tn.gov.in/judis

WEB COPY

trustee. The third amendment was made in the year 1998 under Ex.D.4, dated 28.11.1998 and it is only in the third amendment, defendants 2 to 4 were inducted as trustees. From the date of inception of the trust deed in the year 1987 till 24.06.1996, only three were trustees, namely Namasivayam, Govindarajan and Srinivasan. The defendants 2 to 4 got inducted into the trust only on 06.06.1998 and the fifth defendant in the year 1996. Though the trust was created as public charitable trust originally, after 1998 the family members of the founder were included. It is evident that the trust is the public charitable trust. Further, the very purpose for which the trust was established shows that it is a public charitable trust.

16.When a dispute arose, this Court had appointed an interim administrator in April, 2005 while the affairs of the trust was run by defendants 2 to 5. There were serious allegations raised against the managing trustee by other family members. In fact, the fourth defendant also made serious allegations against her sister and insisted a criminal complaint of misappropriation and breach of trust be lodged against the second defendant. However, later, she withdrew the complaint and joined hands with her own sister in supporting their stand in the written statement. Further, the fifth defendant son-in-law was inducted in the year 1996 and defendants 2 to 4 were inducted in the year 1998. Though the tenure was two years, they got their term extended thereafter frequently, be that as it may. That apart, after the allegations of misappropriation and breach of trust, an interim administrator was appointed

https://www.mhc.tn.gov.in/judis

WEB COPY

and he has unearthed the misappropriation in the trust and has filed a report and as per the minutes of the meeting which was marked as Ex.P.82, one of the most serious allegations raised was that about 100 persons were appointed as non teaching staff without any orders of appointment. Further, it was seen that the accounts for the year 2004-2005 could not be finalised by the auditor. The reports of the auditor Exs.P.86, P.88 and P.89 indicated that bearer cheques have been issued in the name of some employees and accounts were not finalised. This has been established under various documents and they were analysed by the learned single judge. The 4th defendant has given a letter dated 07.05.2006 and the 5th defendant's wife has also given a letter dated 09.05.2006 for the interim administrator to take criminal action which resulted in filing criminal case in Crime No.14 of 2006 for the alleged breach of trust of funds of the trust to the tune of Rs.31,87,220/-. The second defendant and the employees in whose favour cheques were issued were made as accused. This can be seen in Ex.D.46, a copy of the FIR and a final report has also been filed in C.C.No.461 of 2007 on the file of the Judicial Magistrate No.1, Mannargudi.

17.Thereafter, it appears that the said proceedings have been challenged before this court under section 482 of the Cr.P.C. and a stay has been obtained. This fact has been clearly captured by the learned single judge holding that there was misappropriation and maladministration of the trust. Further, it was also established that the second defendant as the managing trustee has not properly maintained the accounts and that records were missing. These facts in

https://www.mhc.tn.gov.in/judis

WEB COPY

fact weighed the mind of the learned single judge to frame a scheme. Further, it was the contention that the contributions were made not only from the members but also from the private players and the very object of the trust is to serve the mazdoor workers in the railways and the people belonging to social and economic backward classes. Though under Ex.D.5, the General Body of the Union dated 22.06.1998 resolved that the Mazdoor Welfare Trust is an independent body and the union had no control over the trust, in the same resolution it was also recorded that the members of the union had contributed largely to the trust. The founder himself has circulated a booklet titled 'Mazdoor Welfare Trust (Reflections and Recollections)' on the occasion of the launching of the trust at the Railway community Hall which was also filed as Ex.P.1. At that point of time, a sum of Rs.4,05,585/- was collection from the donations made by the mazdoor members. The entire Rs.4,05,585/- came from the employees of the railway at various branches and divisions. Later, from 1989 to 1994, the founder of the trust issued several circulars in his capacity as general secretary of the Southern Railway Mazdoor union. These circulars are Exs.P.2 to P.8. Ex.P.2 proved the fact that the list of donations received from various divisions including Madras, Mysore, Bangalore, Madurai, Trivandrum, Tiruchirappalli and Palghat East and West divisions totalling to Rs.11,53,322/-. Under Ex.P.3, a decision was taken in the meetings of the Central Working Committee of the Union that the college proposed to be started by Mazdoor Welfare Trust may be located in the Divisional Head quarters which stands

https://www.mhc.tn.gov.in/judis

WEB COPY

constantly in first place in bonus donation collection in the ensuing years 1989 to 1991. That resolution was also signed by the founder as the General Secretary of the union. Ex.P.4 the circular sent by Namasivayam as the General Secretary indicates that a sum of Rs.13,24,366 had been collected from the railwaymen for the trust. Ex.P.4 also contains a list showing details of donations division wise and its evaluation of performance. Exs.P.5 and P.6 were also circulars. Ex.P.6 even proved the fact that all the working committee members and all branch secretaries should be available and ready at the Thanjavur railway station to leave for Kovilvenni by 09.00 hours train. This fact clearly shows that the educational institution was established only from the contributions made by the members of the mazdoor union.

18.That apart, Ex.P.7 circular dated 16.04.2994 also was issued by the founder of the trust to all Areas-In-charge calling upon them to account for the collection and remittance of subscriptions and donations. Similarly Ex.P.8 is the notice for the meeting of the Central Working Committee of the Union which is scheduled to be held on 4th and 5th July, 1994 at Thanjavur to enable the members to visit the site purchased for the proposed engineering college. These facts clearly establishes that the site was also purchased with the contribution from the members These documents clearly shows that every branch secretary and area in-charge and the members of the Central Working committee of the union have contributed. That apart, the documents, namely Exs.P.9, P.15, P.16, P.46, P.49, P.50, P.51, P.52, P.53, P.55, P.57 and P.60 proved the fact that an

https://www.mhc.tn.gov.in/judis

WEB COPY

extent of 3 acres in S.No.510 was requested and finally, under Ex.P.55, an extent of 4.39 acres railway land has been given. Later, it appears that under Ex.P.60, the Managing Trustee had requested the District Collector to arrange for the early acquisition and transfer of the land for the construction of the college building. These documents were analysed threadbare by the learned single judge and it was found that the institution was established with the sole contribution made by the members. Even a further communication was also sent by the Namasivayam also seeking for further donation, which was also sent by him as the General Secretary of the union. Even thereafter, for the land classification, a letter was addressed by Namasivayam not in the capacity as the Managing Trustee, but in the capacity as the General secretary of the Union.

19.Even Ex.P.17 calendar of the engineering college shows that for the first time in the history of the country, the workers formed a trust and started a self financing engineering college. During the 1996-97 academic year, a decision was also taken to admit two wards of the railwaymen in the college started by the trust. Even the Souvenir Ex.P.20 proved the fact that Namasivayam himself has given a message to the effect that it is the only self financing engineering college managed by the workers in the whole of the Asia. Ex.P.21 proved the fact that in fact, the family members welcomed the office bearers of the union and acknowledged the involvement of the members of the union in the affairs of the trust. Even for the grant of approval by the All India Council for Technical Education, the letter under Ex.P.22 shows that the

https://www.mhc.tn.gov.in/judis

WEB COPY

founder of the trust indicated that the college was funded by lakhs of railwaymen. All the documents, namely Ex.P.1 to P.18 and P.20 to P.22 clearly captured the role played by the workers and the union in the formation of the trust and the establishment of the college. The audit certificate for the year 1988-89 of the college also included the receipts and payment of the Mazdoor Welfare Trust. Further, Exs.P.43, P.47, P.56, P.62 and P.64 also proved the collection of donations by the mazdoor welfare trust. Ex.P.38 described the number of collections and who are the sponsors of the Mazdoor Welfare Trust, etc., From the above documents, it is clearly found that Namasivayam, who was the founder of trust, on his own words indicated that from the huge contributions made by the members of the union, the institution came to be established. This has been clearly recorded by the learned single judge by analysing every document. For the first time, only in 1998, the family members were made as trustees and there is absolutely no contributions from the family members.

20.Though it is contended by defendants that apart from the contributions made by the members, there were huge contributions received from various persons and documents were filed as Ex.D.98 series to support the same and though much emphasis was made under Ex.D.98 that various contributions have been made by third parties, these payments were said to have been made 16 to 18 years ago. Absolutely there is no evidence whatsoever to show that these payments were made with proper accounts and whether any exemptions were

https://www.mhc.tn.gov.in/judis

WEB COPY

obtained under the Income Tax Act, etc., If really defendants wanted to prove these documents, they ought to have examined the author of those documents. However, they have not chosen to let in any oral evidence. Therefore, we are of the view that merely on the basis of some self styled receipts, such huge donations cannot be inferred to have been contributed by the third parties. The alleged donations exceeding more than a crore rupees without any semblance of evidence do not prove the donations for the trust. Therefore, without examining any persons who have donated such huge sum, merely on the basis of some self styled receipts, the contention of the defendants cannot be countenanced. In this regard, the learned single judge has rightly rejected these documents and disbelieved the documents. In the absence of any proof of actual payments and parties who were said to have issued the same, without the evidence of the actual payment by the persons who have donated, such documents cannot be taken as proof for such huge donation. Further, absolutely there is no accounts whatsoever filed to show that these amounts have come to the accounts of the trust. Therefore, the learned single judge was right in disbelieving the documents. Therefore, we are of the view that once the trust is formed out of the contributions made by the members of the Mazdoors and there is no contribution by the family members proved, such family members cannot seek inherited right as if it is a private property of the family.

21.As there are serious allegations of misappropriation unearthed by the administrator appointed by this court and in respect of which, criminal case has

https://www.mhc.tn.gov.in/judis

WEB COPY

been given, taken cognizance by the court, which is pending, merely because the same has been stayed, that will not wipe out the allegations of misappropriation and the breach of trust. Further serious allegations have been raised by defendants 2 and 4 against each of them. In fact, as rightly observed by the learned single judge, the fourth defendant withdrew the complaint given against the second defendant and managed to have ties with her and supported the case. This fact clearly indicates that only in order to take the benefit from the trust, which was founded with the blood and toil of the members of the mazdoor union, the defendants have joined together and took the same stand. The members of the union had due respect and sentiment on Namasivayam, the founder of the trust. In fact, even to celebrate the commemorative memory of the son of Namasivayam, the members of the workers in the railway had donated blood. This fact stands clearly established and recorded by the learned single judge in the judgment. That being the position, merely because during the life time of the founder, defendants 2 to 4 were inducted as trustees which was not objected by the members and that may be due to the respect the said Namasivayam had commanded at the relevant point of time as the leader of the union, that will not give absolute right and privilege to the family members to usurp the property of the public charitable trust.

22.Though the documents as discussed above indicate that there was no amount of contribution by the family members, except the hard work of

https://www.mhc.tn.gov.in/judis

WEB COPY

Namasivayam in founding the trust and that he has garnered the support of all the members which was due to the respect the members of the union had on Namasivayam, that cannot be taken advantage by the family members to usurp the property of the trust. The learned single judge also indicated that the 5th defendant is the son-in-law of the founder Namasivayam and during the life time, he has addressed a letter under Ex.D.101, by which Namasivayam wanted the 5th defendant to take charge of the college fully for all practical purposes. In fact, Namasivayam directed the fifth defendant to be the signatory even to operate the bank account. Under Ex.D.102 letter dated 17.03.2000 by Namasivayam to 5th defendant, Namasivayam congratulated him for holding a colourful first convocation of the college and the methodical approach of the fifth defendant. By Ex.D.103, Namasivayam hailed the fifth defendant as better administrator than him and praised him as having excelled the founder himself. The defendants 2 and 3 joined together and removed the fifth defendant which forced him to file two suits. Later, as per Ex.D.18, the 5th defendant had conducted general council meeting on 22.09.2004 and the meeting was attended by the former Vice Chancellors of Bharathiyar University and Annamalai University, apart from the Director of CECRI who happened to be the Anna University nominee. Even when the dispute was raised by the other daughters, Namasivayam had addressed a letter Ex.D.105, wherein he has referred that the 5th respondent was running the college in an efficient manner and if there are any problems in running and administering the college, the college could be

https://www.mhc.tn.gov.in/judis

WEB COPY

handed over to Sri Ramakrishna Mutt, Mylapore. This document clearly shows that the founder of the trust was very much satisfied in the manner in which the 5th defendant was continuing with the administration in running the college and no adverse report whatsoever was established against the 5th defendant in the entire document. Such being the position, we are of the view that the learned single judge including the fifth defendant in the trust board for a period of three years does not require any interference.

23.Considering the said aspect, as no contribution was made by the family members and serious allegations were made against each of the daughters and several misfeasance and malfeasance were noted by the interim administrator and that there was serious allegation also made to remove the interim administrator and the trust being the public charitable trust, this court exercising its parens patriae jurisdiction with respect to the public charitable trust is of the view that the institution has now also grown up and the same is also not in dispute and therefore, the framing of the scheme by the learned single judge does not require any interference. Though much emphasis is made by the learned senior counsel appearing for the union that since the union members have also contributed much to the growth of the trust, the representatives of the union, namely the President and the General Secretary of the Southern Railway Mazdoor Union also to be included as trustees, this court vary of such submission for the simple reason that though contributions were made by the members and it is also swelling in large amount and resulted in

https://www.mhc.tn.gov.in/judis

WEB COPY

establishing the college, we cannot also lose sight of the prevailing situation in every trade union. It cannot be disputed that every trade union has now political affiliation. Therefore, if the President and the General Secretary of the plaintiff union are included in the trust board, it will lead to further complications and that such situation will further disturb the proper administration of the trust. Therefore, we are of the view that the office bearers of the union, at no point of time, could be appointed as trustees. Taking note of the large amount of contribution by its members, we are of the view that the learned single judge order excluding the office bearers does not require any interference.

24.Further, in respect of the inclusion of the children of the defendants 2 and 4, on rotation basis, we are of the view that the learned single judge has taken note of various contributions made by Namasivayam, the founder of the trust. Though the learned single judge removed defendants 2 and 4 from trusteeship, but has permitted their children to be the trustees on rotation basis once in three years. Therefore, this court is of the view that the same should be continued.

25.Accordingly, the learned single judge's decision that the trust shall be administered by the Board of Trustees comprised by seven members does not require any interference and the same would do well for the administration of the trust. It is now brought to the notice of this court that after the administration of the trust by the interim administrator who is the retired Judge of this Court, the trust fund of Rs.50 Crores has been saved and he had entrusted the accounts.

https://www.mhc.tn.gov.in/judis

WEB COPY

We appreciate the efforts of learned Interim Administrator, Former Judge of this Court, for his valuable contribution in preserving the public trust with its objects.

26.In the light of the above discussions, this court is of the considered view that the scheme framed by the learned single judge in C.S.No.160 of 2004 dated 07.06.2013 does not require any interference, but the composition of the Board of Trustees alone is modified comprising of seven persons in the Board. Accordingly, the issues are answered.

27.In the light of the above, the scheme as framed by the learned single Judge is confirmed. But this court is of the considered view that the composition of the Board of Trustees requires modification. The same shall be as follows:

(i)Hon'ble Mr.Justice S.Rajeswaran, a retired Judge of this Court and who hails from the Thanjavur district, shall be the Chairperson of the Board of Trustee for a period of three years from the date of taking charge;

(ii)Prof.S.Sriman Narayanan, former Vice Chancellor of a University recognised by the University Grants Commission with good academic background and clean record of service;

(iii)One trustee from the lineal descendants of Founder Namasivayam shall be nominated to the trust board once in three years on rotation basis. In other words, if one of the family members of Devi is nominated for a period of three years, thereafter, the family members

https://www.mhc.tn.gov.in/judis

WEB COPY

of Usha shall be nominated for another period of three years. As stated supra, this court is of the view that the nomination of 5th defendant in the trust board by the learned single judge does not require any interference. Accordingly, for the first term, Dr.S.Tamilarasan, 5th defendant, will be in the Board of Trust as trustee for a period of three years. After the completion of three years by the 5th defendant, one of the family members of N.V.Devi shall be nominated for the next three years period. Thereafter, one of the family members of N.V.Usha shall be nominated for the next three years period. This cycle shall continue likewise. It is clarified that the family member means the children, preferably if a female child is there, she should be given first preference.

(iv)One representative of the first plaintiff Union who is not an office bearer of the union shall be in the Board of Trustees and he shall be nominated by the first plaintiff Union. The person to be nominated by the first plaintiff Union shall be of good reputation and shall not be less than 50 years of age and he should possess at least the qualification of a degree and should not have been implicated or involved in any criminal case. The first plaintiff union shall send the name, address and other details of a nominee of their choice to the Chairperson appointed by this judgment;

(v)One Chartered Accountant to be chosen from the list of five

https://www.mhc.tn.gov.in/judis

WEB COPY

persons sponsored by the Institute of Chartered Accountants of India. The Board may address a letter to the Institute in this regard for sponsoring a list of five persons willing to offer voluntary services for the cause of the education;

(vi)One serving or retired Professor/ Reader/ Assistant Professor with a Doctorate degree and a minimum of 20 years of teaching experience and should have served in any Engineering college or a Polytechnic. It will be open to the Chairperson to get a list of eligible and willing candidates from the Anna University, Chennai or Regional Engineering College, Trichy as and when vacancies arise in this category. While selecting a person under this category, preference may be given to a person settled in the same Revenue district in which the college is located.

(vii)The Principal of the College. The Principal of the College shall be the Ex-Officio Member of the Board of Trustees.

One among the trustees in the Board of Trustees other than the Chairperson shall be elected as the Secretary of the Trust. The term of the Board of Trustees shall be for a period of three years from the date when the every trustee assumes charge as Board of Trustees. The general conditions and tenure of the office shall be the same as ordered by the learned Single Judge.

28.The duties and responsibilities of the Board of Trustees shall be governed by the scheme already framed by the learned single judge and the

https://www.mhc.tn.gov.in/judis

WEB COPY

Board of Trustees shall carry out their functions as per the scheme framed in C.S.No.160 of 2004 dated 07.06.2013, as confirmed by this court in this judgment. The Board of Trustees shall ensure that the special objects and purpose for which the trust was formed are effectively implemented. That apart, in all the educational institutions run by the trust, the 15% of the total student intake shall be reserved for the children of railway workers subject to the applicable reservation rules and other statutory requirements. The monthly remuneration of the Chairperson is fixed at Rs.1,50,000/- (Rupees one lakh fifty thousand only). The academicians in the Board of Trustees shall be paid Rs.1,00,000/- (Rupees one lakh only) per month as Honorarium. The other members shall be paid reimbursement of the actual expenses incurred by them in attending the affairs of the Trust. It is made clear that after the period of tenure by the Chairperson is over, necessary orders shall be obtained from this court as to the nomination of the next Chairperson to the Board of Trustees.

29.In the light of the above discussions, the judgment and decree of the learned single judge dated 07.06.2013 made in C.S.No.160 of 2004 is confirmed except the modification of composition of Board of Trustees as indicated above. All the above four original side appeals are disposed of. There shall be no order as to costs.

30.C.M.P.Nos.16879, 21577 and 22153 of 2025 have been filed by the appellants Trust and Trustees to receive the documents as additional evidence on the side of the appellants. The Court is of the view that majority of these

https://www.mhc.tn.gov.in/judis

WEB COPY

documents have already been filed and considered by the learned single Judge. Further, the appellants have also not canvassed any argument for receipt of these documents and most of the documents have already been considered by the learned single Judge. Therefore, this court is of the considered view that these documents are not required for disposal of the lis. The other documents are with regard to board meetings, letters, proceedings of the administrator and some pertaining to criminal proceedings and they are not relevant for deciding the issue. Further, most of the documents have already been relied on by the learned single Judge. Hence, C.M.P.Nos.16879, 21577 and 22153 of 2025 are dismissed. Consequently, other connected miscellaneous petitions are closed.

(N.S.K.,J.) (G.K.M.,J.)
20-11-2026

Index: Yes
Speaking order
Neutral Citation: Yes

VVK

Note to office :

Registry shall send a copy of this judgment to
Hon'ble Mr.Justice S.Rajeswaran, a Former Judge of this Court
appointed as Chairperson of the Board of Trustees.

https://www.mhc.tn.gov.in/judis

2026:MHC:4657

Order QR

WEB COPY

N.SATHISH KUMAR J.
AND
GK.MUTHUKUMAAR J.

VVK

Pre delivery judgment in
OSA No. 230 of 2013
AND
OSA NO. 345 OF 2013,CMP NO. 11308 OF 2019,
CMP NO. 12019 OF 2022,CMP NO. 16879 OF 2025,
CMP NO. 21577 OF 2025,CMP NO. 22153 OF 2025,
OSA NO. 127 OF 2019,OSA NO. 197 OF 2022

20-11-2026

https://www.mhc.tn.gov.in/judis