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In the High Court of Judicature at Madras.

Ordinary Original Civil Jurisdiction.

Monday the 24th day of September, 1951.

The Honourable Mr. Justice Salakrishna Iyer.

C.S.No. 42 of 1951.

Between:

1. G. Subramaniam son of Ganapathi Pillai, residing at Chidambaram.
2. S. Selvam widow of Mr. Somasundaram at Velanai in Jaffna, Ceylon.
3. S. Sivakolundu Pillai son of Sivagnanam Pillai residing at Sivapuri in Chidambaram.

Plaintiffs.

And

1. Dr. A. Chidambaranatham Chettiar.
2. L.P.Kr. Ramanathan Chettiar, Professor and Assistant Professor in Tamil respectively in Annamalai University, Chidambaram.
3. V. Somasundaram, residing at 5X, No.7, Umayal Santhu Lane, ~~Nakirakurikurukkur~~, Chidambaram.
4. T. Rajanayakam, residing at 24, Malaikatti Street, Chidambaram.
5. S. Venkatesa Dikshitar, residing at South Car Street, Chidambaram.

Defendants.

Suit for a decree directing the modification of the provisions of the scheme framed in C.S.No.427 of 1933 on the file of the High Court in respect of the Public Trust known as the Sri Arumuga Navalar Saiva Prakasa Vidyasalai at Chidambaram and the charities attached thereto and for payment of the costs of the suit out of the estate.

This suit coming on this day before this court for hearing on the underfended Board in the presence of Mr. S. Jagadisa Iyer Advocate for the plaintiffs, and Mr. V. Natesan, Advocate for defendant 4, and defendants

P.T.O.

1 to 3 and 5 not appearing in person or by pleader, and upon reading the decree dated 26.11.37 in C.S.No.427 of 33 and upon hearing the evidence adduced herein, this Court doth in modification of the said decree dated 26.11.37 in C.S.No.427 of 1933 ORDER AND DECREE as follows:-

(1) That the scheme framed in pursuance of the decree ~~dated~~ dated 26.11.37 in C.S. 427 in respect of the Public Trust known as the Sri Arumuga Navalar Saiva Prakasa Vidya Salai at Chidambaram and the charities attached thereto, be and is hereby modified in the following manner.

- (a) the words "The Trustee in his capacity as a Trustee shall have power to open an account with the funds of the Trust in the Indo Commercial Bank at Chidambaram and Madras" be and are hereby added to ~~xxx~~ clause 4 of the said scheme.
- (b) Clause 5 of the said scheme be deleted and the following be and is hereby substituted in its place. "The Board of control shall consist of five persons viz., (i) one to be nominated by the President of the Jaffna Saiva Paripalana Sabha incorporated by Ordinance No.17 of 1931 of the Government of Ceylon (ii) one to be nominated by the President of the Hindu Board of Education constituted under Ordinance 23 of 1926 of the Government of Ceylon (iii) one to be nominated by the District Educational Officer, South Arcot and (iv) one to be nominated by the District Judge, South Arcot and (v) one to be nominated by the Board of Trustees the Pachaiyappa's Charities.

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(c) the following words occurring in clause 11 of the said scheme "the Trustee shall receive no remuneration unless the Court for special reasons sees fit to Sanction one an application under this scheme" be deleted, and in their place the following words "the trustee shall receive a remuneration of 4 per cent on the income of the properties of the trust" be and are hereby substituted.

AND IT IS FURTHER ORDERED

(2) That the Board of Control be reconstituted with effect from 9.12.1951; and

(3) That the costs of the plaintiffs of this suit fixed at Rs.400/- do come out of the funds of the Trust.

Witness the Honourable Mr. Pakala Venkata Rajamannar, Chief Justice at Madras aforesaid this 24th day of September 1951.

(sd.) V.T. KANDASWAMI, 13.10.51.

FIRST ASSISTANT REGISTRAR.

/TRUE COPY/

In the High Court of Judicature at Madras.

Ordinary Original Civil Jurisdiction.

Monday the 24th day of September 1951.

Before the Hon'ble Mr. Justice Balakrishna Ayyar.

C.S.No. 42 of 1951.

...

G. Subramanian and two others.

Plaintiffs.

Vss.

Dr.A. Chidambaramathan Chettiar
and 4 others.

Defendants.

The evidence of P.W. I makes it clear that certain changes must be made in the Scheme framed by this Court in the 26th November 1937. The residents of Jaffna who were formerly settled in Chidambaram have mostly left. In the original scheme it is provided that one of the persons nominated by the District Educational Officer, South Arcot, should be a Dikshitar. It is now mentioned that the Dikshitar so nominated has been taking no interest at all in the affairs of the Trust. The likelihood also is that these Dikshitars would be more concerned in the internal affairs of the temple than in an institution of this kind. It also appears from the evidence of P.W.I. that a certain amount of difficulty is felt in banking the moneys of the trust. The banks are reluctant to open an account in the name of the trustee without specific orders of the Court. It has also been suggested that some provision should be made for the remuneration of the trustees.

I had an informal discussion in court of the matter with the learned counsel for the plaintiffs and P.W.I. and it appears to me that the following changes should be made. The provision in the original scheme that two members of the Board of Control shall be ~~was~~ nominated by the community of Jaffna

P.T.O.

Tamil residents of Chidambaram must be deleted, but, at the same time it is desirable that the residents of Jaffna should be given an opportunity to interest themselves in the Trust particularly as it owes its inception to a Tamil Scholar of Jaffna descent. I therefore direct that one member of the Board of Control shall be a person nominated of the president of the Jaffna Saiva Paripalana Sabha, incorporated by Ordinance No.17 of 1931 of the Government of Ceylon and another by the president Hindu Board of Education constituted under Ordinance 23 of 1926 of the Government of Ceylon. The provision in the original Scheme framed by this Court that two of the members of the Board of Control shall be nominated by the District Educational Officer of whom one shall be a Dikshitar will be deleted. In its place there will be inserted a provision to the effect that one member of the Board of Control shall be a person nominated by the District Educational Officer, South Arcot. The requirement that the person shall be Dikshitar that the person shall be Dikshitar is removed. The fourth member of the Board of Control will be a person nominated by the District Judge, South Arcot. The fifth member will be nominated by the Board of Trustees, the Pachayappas Charities.

As regards the remuneration of the trustee it is clear that the work connected with the institution is growing. The suggestion in the plaint is that he may be paid a fixed sum of Rs.100/- per month, but, it appears to me that it will be more advantageous to make the payments on a percentage basis since on the one hand the trust will not have to bear a heavy burden in a year of low receipts and since moreover a percentage will be an inducement to the trustee to expand the income of the properties of the trust, I think 4 per cent would be appropriate.

In respect of the request for banking facilities it is hereby ordered that the trustee in his capacity as a trustee shall have power to open an account with the funds of the trust in the Indo-Commercial Bank at Chidambaram and Madras.

The Board will be reconstituted with effect from 9th December 51. The costs of this suit which is fixed at Rs.400/- will come out of the funds of the trust.

Expedite issue of the decree.

(sd.) 24th September, 1951.

C.S.No. 42/51.

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