

KABG010020062022



**IN THE COURT OF PRL. DISTRICT & SESSIONS JUDGE,
AT BELAGAVI**

DATED THIS THE 14th DAY OF JULY 2026

PRESENT: SHRI MANJUNATH NAYAK,
B.A.L. LL.B.,
Prl. District & Sessions Judge,
Belagavi.

Misc.No. 63/2022

Petitioners:

1. National Education Trust,
Registered office at No.89,
Navipeth, Ramdurg, Dist: Belagavi
A Public Trust, Registered under
The provisions of Bombay Public
Trusts Act, represented by its
Trustees.
2. Sri Mahantesh,
S/o Late Shivappa Rokkadkatti,
Age: 52 years,
R/o Basav Nagar, Ramdurg,
Dist: Belagavi.
3. Smt. Mahanandi @ Nandini,
D/o Late Shivappa Rokkadkatti
Age: 57 years,
R/o No.1090, 8th Cross, 2nd Cross,
Prakash Nagar, Bangalore.
4. Smt. Rajeshwari,
D/o Late Shivappa Rokkadkatti

Age: 42 years,
R/o Laxmanpuri, Gandhi Nagar,
Bangalore.

(By Sri R.N. Totiger, Advocate)

Vs.

Respondents:

1. Smt. Shilpa,
W/o Late Suresh Rokkadekatti
Age: 38 years, Occ: Household work,
R/o Sannakki Building,
Near New Bus Stand Road, Ramdurg,
Tq: Ramdurg, Dist: Belagavi.
2. Mr. Sharan,
S/o Late Suresh Rokkadekatti
Age: 21 years, Occ: Student,
R/o Sannakki Building,
Near New Bus Stand Road, Ramdurg,
Tq: Ramdurg, Dist: Belagavi.
3. Mr. Karan,
S/o Late Suresh Rokkadekatti
Age: 19 years, Occ: Student,
R/o Sannakki Building,
Near New Bus Stand Road, Ramdurg,
Tq: Ramdurg, Dist: Belagavi.
4. Kumari Shanvi,
D/o Late Suresh Rokkadekatti
Age: 14 years, Occ: Student,
Since minor, represented by
M/G natural mother- Resp No.1

(By Smt. Savita S. Patil, Advocates)

ORDER

This petition is filed under Section 92 read with Section 151 of the Code of Civil Procedure ('CPC' for short) and Rule 16A of Karnataka Civil Rules of Practice, to permit the petitioners to file the suit against the respondents.

2. It is the case of the petitioners that the petitioner No.1 is the registered Trust under Bombay Public Trusts Act. One Shivappa Bhimappa Rokkadekatti was the sole trustee and as per the trust deed, sole trustee had the power to manage and administer the trust and also the trust property. The Trust is running a school by name Cambridge English Medium School. Said Shivappa Bhimappa Rokkadekatti died on 06.03.2008 by leaving behind the petitioner No.2, 3, 4 and one Suresh as his legal heirs. The petitioners, along with Suresh Rokkadekatti, have approached the IX Addl. District Judge, Belagavi and filed Civil Misc. Petition No.238/2013 under Sections 3 and 7 of the Charitable and Religious Trust Act to declare them as hereditary trustees of the petitioner No.1 trust. Said petition was allowed, vide order dated 06.08.2016, permitting the petitioner No.1 Trust to cause changes by bringing the legal heirs of Shivappa

Bhimappa Rokkadekatti. One among the said trustee by name Suresh Rokkadekatti died on 12.11.2017, leaving behind the respondent No.1 as his wife and the respondent No.2 to 4 as his children. After demise of said Suresh Rokkadekatti, the respondent No.1 approached the VIII Addl. District Judge, Belagavi by filing Misc.Application No.123/2018 to declare her as the hereditary trustee of the petitioner No.1 Trust. The respondent No.1 has not made the petitioners as parties to the said petition and filed the same by misleading the fact. The respondent No.1 has given paper publication inviting participation of interested persons. No one appeared and ex parte order was passed on 25.01.2019 declaring the respondent No.1 as the hereditary trustee to the petitioner No.1 Trust. On 14.03.2022, the respondent No.1 has brought goonda persons by name Mehaboob Nadaf and Mahammad Shafi Faniband in front of school premises and threatened to close the school by stating that she is the administrator of the school. The respondent No.1 is frequently stating that one Sharada K.D. and Rajeshwari were appointed as staff and they are the leaders of Karnataka Mahila Raita Sangh. The respondent No.1 has submitted the order before the police station, C.P.I., Dy.S.P. Ramdurg, D.D.P.I

Belagavi and B.E.O. Ramdurg and causing obstruction for administration of the Trust and school. Due to all these developments, petitioners want to file suit against the respondents. On these grounds, the petitioners prayed the leave of this Court to institute the suit against the respondents.

3. The respondents appeared before this Court through their counsel and filed the objections to this petition and admitted the relationship between them and also about other litigation between them and denied other petition averments. According to the respondents, the relief sought to be claimed in the proposed suit do not come within the purview and scope of Section 92(1) of CPC. The petitioner No.1 Trust is a hereditary trust. The father in law of the respondent No.1 was the sole trustee and he was managing the Trust and the school. After his death on 06.03.2008, the petitioner No.2 to 4 and the husband of the respondent No.1, Suresh Rokkadekatti were running Trust and school. During his lifetime, husband of respondent No.1 Suresh Rokkadekatti is the Administer of the Trust and he has made endeavor for the development of the Trust. The husband of the respondent No.1 was receiving remuneration of Rs.15,000/- per

month for his service as Administrator. The husband of respondent No.1 died on 12.11.2017. The respondent No.1 filed Misc. Application No.123/2018 to declare that she is one of the hereditary trustee of the Trust. Said petition was allowed. The respondent No.1 is the lawful hereditary trustee of the Trust. The petitioner No.2 to 4 are not ready to allow the respondent No.1 to participate in any of the activities of the Trust. The Trust is having several immovable and movable properties. The respondent No.1 has filed a suit in OS No.40/2017 before the Senior Civil Judge, Ramdurg claiming share in the joint family properties of their family. The petitioners have misused the fund and property of the Trust. There is need for appointment of administrator to the Trust for proper management. On all these grounds, the respondents prayed for dismissal of the petition with costs.

4. To prove and substantiate their case, petitioner No.2 examined before this Court as PW1 and got marked Ex.P1 to 28 documents. On the other hand, respondent No.1 examined as RW1 and got marked Ex.R1 to 17 documents.

5. I have heard the arguments of both the parties.

6. The point that arises for my consideration is:

1 Whether the petitioners have made out any grounds to permit them to institute a suit against the respondents?

2. What Order?

7. My answer for the above points are in the following,

because of my below discussed reasons:

Point No.1: **IN THE NEGATIVE**

Point No.2: **AS PER THE FINAL ORDER**

REASONS

8. **Point No.1:** The petitioner No.1, who was examined before this Court as PW1, in his examination in chief affidavit has reiterated the petition averments and deposed about the formation of Trust by his father and it is a hereditary Trust. PW1 further deposed about the petitions filed by them and the respondent No.1 in respect of the said Trust. PW1 further deposed about the respondent No.1, by colluding the goonda persons, causing obstruction for the administration of the Trust and educational institution run by the

Trust. PW1 further deposed that they have approached the Hon'ble High Court of Karnataka by filing WP No.101080/2022 to set aside the order obtained by the respondent No.1 in Misc.123/2018.

9. The petitioners have produced the copy of trust deed dated 12.02.1987 as per Ex.P1. PTR sheet is marked as per Ex.P2. Certificate of registration relating to the Trust is marked as per Ex.P3. Death certificate of Sri Shivappa Rokkadakatti is marked as per Ex.P4. Death certificate of Sri Suresh Rokkadakatti is marked as per Ex.P5. Order passed by the Hon'ble High Court of Karnataka in WP No.101119/2022 is marked as per Ex.P6. The notice issued by the Additional Deputy Commissioner, Belagavi is marked as per Ex.P7. Ex.P8 is the notice issued by the petitioners to the B.E.O. Ramdurg. Postal receipt and postal acknowledgment relating to the said notice are marked as per Ex.P10 and 11. Ex.P12 is the complaint lodged by the petitioner Trust to the C.P.I. Ramdurg on 30.04.2022. Postal receipt and postal acknowledgment relating to the said complaint are marked as per Ex.P13 and 14. The complaint lodged by Dy.S.P. Ramdurg is marked as per Ex.P15. Postal receipt and postal acknowledgment relating to the said complaint are marked as per

Ex.P16 and 17. Ex.P18 is the letter issued by the petitioner addressed to the Deputy Commissioner Belagavi on 13.04.2022. Postal receipt and postal acknowledgment are marked as per Ex.P19 and 20. Letter issued to the D.D.P.I. Belagavi on 13.04.2022 is marked as per Ex.P21. Postal receipt and postal acknowledgment are marked as per Ex.P22 and 23. Certified copy of order dated 06.08.2016 passed in Misc.No.238/2015 by the IX Addl. District Judge, Belagavi is marked as per Ex.P24. Certified copy of order dated 25.01.2019 in Misc.No.123/2018 by the VIII Addl. District Judge, Belagavi is marked as per Ex.P25. Ex.P26 to 28 are the photos, which were confronted to RW.1 during the course of her cross examination.

10. The respondent No.1, who was examined as RW1, in her examination in chief, has deposed about the relationship between them and reiterated the averments of the objections filed to this petition. RW1 further stated about the various litigation in respect of the Trust and the petitioners neglecting her and her children after the death of her husband, who is one of the hereditary trustee and working as administer of the Trust.

11. The respondents have produced the book relating to Cambridge English Medium School released at the time of its silver jubilee as per Ex.R1. Notice dated 24.02.2022 is marked as per Ex.R2. Postal acknowledgment is marked as per Ex.R3. Copy of notice is marked as per Ex.R4. Ex.R5 is the letter dated 10.01.2022 issued to D.D.P.I. Belagavi. Postal receipt is marked as per Ex.R6. Pay order is marked as per Ex.R7. The application submitted under RTI is marked as per Ex.R8. Copy of plaint in OS No.40/2017 filed before the Senior Civil Judge, Ramdurg is marked as per Ex.R9. RTC of Sy.No.87/1, 87/2, 95/16 and 95/12 are marked as per Ex.P10 to 13. Mutation orders are marked as per Ex.R14 to 16. Photo of the publication given by the petitioner No.2 is marked as per Ex.R17.

12. Before proceeding to discuss the disputed questions involved in this petition, let me state some of the admitted and undisputed facts and also about litigation between these parties in respect of subject matter, which took place before filing of this petition. It is evident from Ex.P1 that the Trust called National Education Trust was formed by one Shivappa Rokkadakatti as its sole trustee. Said Trust was a hereditary trustee as evident from Ex.P2 PTR

sheet. Said Trust was registered and the certificate of registration was issued as per Ex.P3 on 20.02.1987. The petitioner No.2 is the son and the petitioner No.3 and 4 are the daughters of said Shivappa Rokkadakatti. Apart from the petitioner No.2 to 4, Shivappa Rokkadakatti has got a son Suresh Rokkadakatti. The respondent No.1 is the wife and respondent No.2 to 4 are the children of the said Suresh Rokkadakatti.

13. It is evident from Ex.P4 that Shivappa Rokkadakatti, who was hereditary trustee of the petitioner No.1 Trust died on 06.03.2008. After his death, the petitioner No.2 to 4 and Suresh Rokkadakatti have filed a petition in Misc.No.238/2025 before the IX Addl. District Judge, Belagavi for making changes to bring the legal heirs of Shivappa Rokkadakatti as the trustees. It is evident from Ex.P24 that the petition filed by them was allowed vide order 06.08.2016 and the petitioner No.2 to 4 and their brother Suresh Rokkadakatti were permitted to cause changes to the petitioner Trust by bringing them as legal heirs of deceased Shivappa Rokkadakatti.

14. In the meanwhile, Suresh Rokkadakatti, who is the husband of respondent No.1 and father of the respondent No.2 to 4,

died on 12.01.2017 as evident from his death certificate as per Ex.P25. After his death, dispute started between the petitioners and the respondents in respect of the administration and management of the Trust and its educational institutions. During the year 2018, the respondent No.1, by calling herself as hereditary trustee of the petitioner No.1 Trust, has filed Misc.No.123/2018 to declare her as the hereditary trustee of the petitioner No.1 Trust. Ex.P25 is the order passed in Misc.No.123/2018. Said petition was allowed vide order dated 25.01.2019 and the respondent No.1 herein was declared as the hereditary trustee of the petitioner No.1 Trust. There were no respondents made in the said petition. Even though there is dispute about management of the Trust, the respondent No.1 has filed the petition and obtained order without making these petitioners as party to the said petition.

15. Being aggrieved by the said order, the petitioners have approached the Hon'ble High Court of Karnataka by filing Writ Petition in WP No.101080/2022. Said Writ petition is still pending before the Hon'ble High Court of Karnataka. Thereafter, the petitioners have filed this petition under Section 92 of the CPC seeking leave of this Court to

file a suit against the respondents, by alleging that the respondents are causing obstruction and interference for the administration and management of the Trust and the educational institution, being run by the Trust.

16. Along with the petition, petitioners have produced copy of the plaint of the proposed suit, which shows that by way of filing the suit, the petitioners want to claim a relief of injunction against the respondents to restrain them from interfering with the administration of the school and to reopen the case in Misc.No.123/2018. Now, the question before this Court is as to whether the petitioners have made out a case for granting leave to them to file such a suit under Section 92 of CPC.

17. Section 92 of CPC describes the nature of the suit and relief, which can be claimed in filing the suit by seeking the leave of this Court. In this regard, it is necessary to reproduce Section 92(1) of CPC, which runs like this:

“Public charities. (1) In 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, 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, 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;**

²[(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];

- d) directing accounts and inquiries;**
- (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."**

18. As per the above provision, a suit for claiming the relief such as for removing any trustee, appointing a new trustee, vesting any property in a trustee, directing a trustee, remove the trustee, to deliver the property, directing accounts and inquiries, declaring trust property to be allocated to any particular object of the trust, authorizing to sell or mortgage of the trust, settling a scheme, can be filed under Section 92 of CPC.

19. The plaint of the proposed suit, which is filed along with this petition, reveals that the proposed suit is not intended to claim any such relief as stated under Section 92 of CPC. As I said earlier, by way of proposed suit, these petitioners want to claim the relief of temporary injunction. First of all, seeking a relief of temporary injunction by way of filing an independent suit is unknown to law. A

suit for claiming the relief of permanent injunction can be filed and in such a suit, interim application can be filed to seek the relief of temporary injunction. It is quite a strange that these petitioners want to file a suit for claiming a relief of temporary injunction. According to me, it is not permissible under law and it is also not provided under Section 92 of CPC.

20. Another relief, which the petitioners want to claim by filing the proposed suit is to restore the name of petitioner No.2 to 4 by reopening the case in Misc. Application No.123/2018. Again filing a suit for claiming such a relief is outside the purview of Section 92 of CPC. So far as the order passed in Misc. Application No.123/2018, these petitioners have already approached the Hon'ble High Court of Karnataka to set aside the same. The petitioners alleged that the respondent No.1, without making them as a party to the said petition, has obtained an order in Misc. Application No.123/2018 for declaring her as hereditary trustee. The legality of the said order has been challenged before the Hon'ble High Court. Under such circumstance, filing a suit for nullifying the order passed by another Court is not permissible under Section 92 of CPC. So, both the reliefs claimed in

the proposed suit will not come within the purview of Section 92 of CPC. Hence, on that score alone, the present petition is liable to be dismissed.

21. Now, let me continue my discussion by assuming for a while that, the suit for claiming such a relief is permissible under Section 92 of CPC. Admittedly, the petitioner No.1 is a hereditary trustee. Initially, one Shivappa Rokkadakatti was the sole trustee of the said Trust. After his death, petitioners have filed Misc.No.238/2015 and got an order from the District Court, Belagavi for making necessary changes and to bring them as the trustees. Same has been allowed as evident from Ex.P24. Thereafter, all the four children of Shivappa Rokkadakatti were became the trustees of the petitioner No.1 Trust. The respondent No.1 is the wife and the respondent No2 to 4 are the children of one Suresh Rokkadakatti, who is the brother of the petitioner No.2 to 4 and who has been added as the trustee as per Ex.P24 order. So, these respondents are the Class-I heirs of one of the trustee of the hereditary trust. The respondent No.1 has already obtained an order as per Ex.P25 for declaring her as hereditary trustee. Unless and until, said order is set aside, the petitioners

cannot maintain the suit against her to restrain her from participating in the management and administration of the Trust.

22. Of course, there is no distinction between the ordinary trustee and hereditary trustee. No trustee can be said to be owner of the property by real sense of the term. The legal ownership, which vest in the trustee that is for the purpose of the Trust and for the beneficial enjoyment of the others and for administration of the provisions of the Trust. Thus, it is clear that the property of the Trust vest in the trustees in a limit sense and to be managed for subserving of the object of the Trust.

23. The only difference between ordinary trustee and hereditary trustee is regarding method and mode of appointment. Even hereditary trustee is required to be recognized by the Court and necessary entries are to be made in the Trust register and consequential changes of the trustee to be recorded. Under such circumstances, these petitioners cannot claim that they are having the absolute right over the petitioner No.1 Trust and its properties and educational institutions in order to claim the relief of injunction against the respondents. Considering all these aspects, I have not

24. **Point No.2:** In view of my findings on the above point, on is liable to be dismissed. Hence, I proceed to pass the following order:

The petition filed by the petitioners under Section 92 read with Section 151 of Code of Civil Procedure and Rule 16A of Karnataka Civil Rules of Practice is dismissed.

(Manjunath Nayak)
Prl. District & Sessions Judge,
Belagavi.

ANNEXURE

PW1 Sri Mahantesh S/o Shivappa Rokkadakatti

Witnesses examined on behalf of the respondents:

RW1 Smt. Shilpa Suresh RokKadakatti

Documents got exhibited on behalf of petitioners:

Ex.P1 Trust deed dated 12.02.1987
Ex.P2 Certified copy of PTR
Ex.P3 Certified copy of certificate of registration
Ex.P4 Death certificate of Shivappa
Ex.P5 Death certificate of Suresh
Ex.P6 Certified copy of order in WP No.101119/2022
Ex.P7 Notice issued to petitioner Trust
Ex.P8 Notice issued to BEO Ramdurg
Ex.P9 Notice issued to Superintendent of police, Belagavi
Ex.P10 Postal receipt
Ex.P11 Postal acknowledgment
Ex.P12 Office copy of letter issued to CPI Ramdurg
Ex.P13 Postal receipt
Ex.P14 Postal acknowledgment
Ex.P15 Office copy of complaint
Ex.P16 Postal receipt
Ex.P17 Acknowledgment
Ex.P18 Office copy of letter issued to
Deputy Commissioner, Belagavi
Ex.P19 Postal receipt
Ex.P20 Postal acknowledgment
Ex.P21 Office copy of letter issued to DDPI, Belagavi

- Ex.P22 Postal receipt
- Ex.P23 Postal acknowledgment
- Ex.P24 Certified copy of order dated 06.08.2016
passed in Misc.No.238/2018
- Ex.P25 Certified copy of order dated 25.01.2019
passed in Misc.No.238/2018

Ex.P26 to 28 Photos

Documents got exhibited on behalf of respondents:

- Ex.R1 Silver Jubilee Commemorative Issue
- Ex.R2 Notice dated 24.02.2022
- Ex.R3 Postal acknowledgment
- Ex.R4 Copy of notice
- Ex.R5 Letter issued to DDPI Belagavi
- Ex.R6 Postal receipt
- Ex.R7 Pay order
- Ex.R8 Application submitted under the RTI
- Ex.R9 Complaint of OS No.40/2017
- Ex.R10to13 Record of rights
- Ex.R14to16 Mutation extracts
- Ex.R17 Photo publication

**(Manjunath Nayak),
Prl. District & Sessions Judge,
Belagavi.**