

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUVANNAMALAI.

PRESENT : **Mr.P. Mathusuthanan**, B.A., B.L.,
Principal District Judge,
Tiruvannamalai.

Thursday, the 20th day of November- 2025

I.A.No.4/2024 in O.S.No.89/2019

1. A.Chennammal
2. Lokesh Kumar

... Petitioners / Plaintiffs

versus

1. The Maharishi Educational Trust
Rep by its Trustee cum President
2. C.Manoharan

... Respondents
/Defendants

This Interlocutory Application has been came up for final hearing before me 13.11.2025 and upon hearing the arguments of **Tr.R.Suresh**, Learned Advocate appearing for the Petitioners and of **Mr.V.G.Murali and Tr.V.G.Ravichandran**, Learned Advocates appearing for the Respondents and upon perusing the available records and having stood over for consideration till this day, this court passed the following...

ORDER

The petitioners filed this petition under Order VI, Rule 17 of CPC to amend the plaint as mentioned in the particulars of amendment in the accompanying petition.

2) **Brief averments of the petition:-**

The petitioners are plaintiffs in the suit. They have filed the above said suit for framing a scheme for the administration of the 1st respondent / 1st defendant trust and for direction against the 2nd respondent / 2nd defendant administrator of the 1st Respondent/1st Defendant Trust to furnish a accounts and also for declaration that the suit schedule property purchased in the name of the 2nd Respondent 2nd/ defendant belongs to the 1st respondent trust and for permanent injunction restraining the 2nd respondent from alienating or encumbering the suit property.

The 2nd Respondent/2nd Defendant usurped the authority and the office of the trustee of the 1st Respondent/1st Defendant and invested for his welfare the revenue from the 1st Respondent trust and purchased not only the suit schedule property but also the properties mentioned in the schedule to the petition. The aforesaid facts are one of the main causes of action that caused to file the above said suit for framing scheme for the 1st Respondent trust along with another substantial relief of directing the 2nd Respondent to furnish accounts of the trust. The suspicion that 2nd Respondent has been divesting the funds and revenues of 1st Respondent Trust grew stronger when the 2nd Respondent purchased a property adjacent to the school belonging to the Trust, hence a relief of title was also incorporated in the suit. When the suit was being made ready the 2nd Respondent purchased yet another property a few weeks or

days before the filing of this suit and one another property pending suit also. These properties also to be declared as the properties of the 1st Respondent Trust along with the already included suit property.

The reliefs against the proposed to be included properties and suit schedule property are one and the same and that the pleadings, evidence and issues are also the same. No separate suit on the very same issue will be maintainable and yet another suit is beyond the provisions of the law. The properties purchased by 2nd Respondent/2nd Defendant in his name is under the sale deed dated 11.07.2019 and 30.07.2022 have to be included in the schedule to the suit and that necessary reliefs are also to be incorporated with additional pleadings in the suit.

The plaint has to be amended in the suit with the particulars of amendment stated in the petition. The consequential amendment of the plaint and additional payment of required court fee are inevitable and that omission of such amendment for additional reliefs will put the 1st Defendant Trust as well as its member trustees into great loss and hardship. It has therefore become just and necessary to amend the plaint as mentioned in the particulars of amendment in the accompanying petition. Hence this petition.

3) Brief averments of Counter filed by the 2nd respondent and adopted the same by 1st respondent:-

The application to amend the plaint is false, frivolous, vexatious and is unsustainable either on question of law or on facts and is liable to be dismissed in limine. This respondent does not admit any of the allegations contained in the affidavit petition save those that are specifically and expressly admitted herein and put the petitioner to strict proof of the same. This respondent has filed a detailed written statement and the allegations contained in the written statement filed by this respondent may be read as part and parcel of this counter.

In the name of amendment, the petitioner is attempting to introduce a new case for which no cause action has been made out in the plaint. With regard to the properties purchased by this respondent under registered sale deeds dated 11.07.2019 registered as document number 4494/2019 and the registered sale deed dated 30.07.2022 registered as document number 6338/2022 of Book-I of the office of the Sub-Registrar, Chengam, those properties were purchased by this respondent out of his funds and has been in exclusive possession and enjoyment of the said properties and it has nothing to do with either the 1st respondent trust or the petitioners.

This respondent exercising his rights of ownership over the properties purchased by him as above, has mortgaged the same for availing of secured

credit facility to the extent of Rs.3,63,58,956/- as early as on 24.01.2024 with Varthana Finance Private Limited, Bangalore under registered memorandum of deposit of title deeds dated 24.01.2024 registered as document number 483/2024 of Book-I of the office of the Sub-Registrar, Chengam and the said loan is subsisting. The property mortgaged by means of the above said memorandum of deposit of titles deeds is the property purchased by this respondent under registered sale deed dated 11.07.2019 registered as document number 4494/2019. A cursory glance at the said registered memorandum of deposit of title deeds dated 24.01.2024 bearing document numbers 483/2024 will prove the fact that this respondent for the benefit of the school has taken the burden of discharging the loan contracted by this respondent for the above said the 1st respondent trust.

The proposed amendment to amend the cause of action is unknown to law and if permitted, it will cause irreparable loss and hardship to the respondents dehors the fact that there is no pleading for amending the cause of action and the prayer to amend the cause of action will prove the fact that there is no cause of action for filing the above suit. The valuation column contained in the amendment petition with regard to the reliefs claimed and the court fees to be paid are not in terms of the prayer listed. The relief of declaration as sought for is not contemplated under section 47 of court fees Act.

If the proposed amendment has to be considered the relief of declaration to declare items 3 and 4 of the schedule of properties as trust properties is beyond the scope of the suit and no such case has been put forth in the pleadings. The proposed court fees to be paid is incorrect de hors the fact that the proposed amendment is hopelessly barred by limitation.. Hence, the respondent has requested to dismiss the petition.

4) Point that arises for consideration in this Petition is that

Whether this petition is to be allowed as sought for?

5) Point: The learned counsel appearing for the petitioner would contend that the petitioner being beneficiary of the above public Trust has filed the original suit seeking to declare the property stands in the name of the 2nd respondent herein as the property of the 1st respondent public Trust and alongwith other reliefs such as framing a scheme for the administration of the 1st respondent trust, directing the 2nd respondent administrator of the 1st respondent trust to furnish accounts and also permanent injunction restraining the 2nd respondent from alienating or encumbering the suit property. He would further submit that the 2nd respondent herein being the president of the Trust purchased the property on 11.07.2019 on his individual capacity out of the income derived from the Trust and even after filing the suit 2nd respondent herein once again purchased the property on 30.07.2022 on his individual

capacity out of the income derived from the 1st respondent Trust. He would further submit that the above both properties are also to be included in the suit and be declared as the properties of the 1st respondent's Trust as these properties were purchased by the 2nd respondent out of the income derived from the 1st respondent's Trust. He would further submit that since no separate suit could be filed on the very same issue, he has come forward with this application to include the properties found in the sale deeds dated 11.07.2019 and 30.07.2022 respectively in the schedule of the suit properties, hence he argued for allow the petition.

6) **Per contra**, the learned counsel appearing for the respondent would contend that the properties sought to be included are purchased by the 2nd respondent herein out of his own money and no way connected to the 1st respondent Trust. He would further submit that the relief of declaration as sought for is not contemplated u/s 47 of TNCF Act. And he would further submit that the relief of declaration to declare the proposed items 3 and 4 of the schedule of properties as Trust beyond the scope of the suit and no such cause of action put-forth in the pleadings. And he would further submit that the proposed amendment to amend the cause of action is unknown to law and if permitted, it will cause irreparable loss and hardship to the respondents de hors the fact that there is no pleading for amending the cause of action and the prayer to the

amend the of cause of action will prove that there is no cause of action for filing the suit, hence he argued for dismissal of the petition.

7) Heard. Perused the records.

8) The only question to be answered herein is that whether the petition could be allowed or not?

9) Admittedly, the properties proposed to be included in the suit property are stand in the name of 2nd respondent. However, the learned counsel appearing for the petitioner would contend that the above properties though purchased in the name of the 2nd respondent though it was out of fund derived from the 1st respondent Trust. In this regard , the learned counsel appearing for the 2nd respondent would contend that since there is no proof to show that the suit properties were purchased out of the fund of 1st respondent Trust, it is not correct to say that the properties were purchased by the 2nd respondent in his name illegally out the fund derived from the 1st respondent Trust. The learned counsel appearing for the petitioner would contend that in order to clarifying the said question raised on the side of the respondent, drawn the attention of this court towards the mortgage deeds and would contend that the 2nd respondent herein has mortgaged the properties i.e proposed to be included in the above suit for the purpose of securing repayment to the Company of all the amounts owing to the Company advances made and to be made to borrowers of M/S Maharishi Educational Trust for the purpose of construction of additional class room. The

recitals found in the mortgage deeds would indicate the connection of the properties proposed to be marked to the 1st respondent trust herein. The the learned counsel appearing for the 2nd respondent would contend that for the benefit of the school he has accepted the burden of discharging the loan contracted by the 2nd respondent for the above 1st respondent Trust. The contention of whether the 2nd respondent had entered into mortgage with the Finance Company for the welfare of the 1st respondent Trust or not can be decided only after full-fledged trial in the main suit not at this stage even assuming for a while that the 2nd respondent herein taken a burden on his shoulder for the welfare of the 1st respondent Trust, including these properties in the above suit would no way cause any prejudice to 2nd respondent when as per his own version, he could establish the recitals found in the mortgage deeds only for the welfare of the 1st respondent Trust. Hence, viewing in any angle, I do not find any force over the contention of the counsel appearing for the 2nd respondent in disputing the relief sought for by the petitioner herein to include the above properties in the main suit.

9) Yet another point to be decided here is that the court fee payable u/s 47 of TNCF Act.

10) The learned counsel appearing for the 2nd respondent would contend that if the petitioner herein amend the plaint to declare the property including in the suit as a property of the 1st respondent herein, he ought to pay the court fee

u/s 28 of TNCF Act not u/s 47 of TNCF Act . Infact the suit herein has been filed alongwith u/s 92 of CPC petition which has been allowed in I.A.No.207/2019 on merit after hearing both side. It is not the case of the 2nd respondent that he has preferred any revision as against the order passed in the said I.A. That being so, at this stage he cannot raise any question with regard to valuation of the suit property u/s 47 of TNCF Act. Hence, the contention of the 2nd respondent on that aspect deserves to be rejected.

11) And also the relief sought for by the petitioner to amend the original suit for incorporating the relief of injunction as against the property proposed to be included also, in my considered opinion cannot be denied.

12) However, so far as the relief sought for by the petitioner to amendment of cause of action is concerned, it is hereby rejected as the question of amending the cause of action at the latter stage after filing the suit is unknown to law. Thus, in so far as the relief sought for by the petitioner to amend the cause of action is concerned, this court is not inclined to allow the petition. Nevertheless, so far as the other reliefs sought for by the petitioner in the petition is concerned, this court is inclined to allow the petition.

With the above stipulation this court is inclined to allow the petition partly and thus the point is answered accordingly.

Infine the petition is partly allowed, so far as the relief sought for by the petitioners to amend the cause of action is concerned, the petition is dismissed

and in so far as the other reliefs sought for by the petitioners in the petition is concerned, the petition is allowed. No cost.

This Order is dictated by me to the Stenographer Grade-I of this Court, transcribed by her in Computer, corrected and pronounced by me in open court, this the 20th day of November- 2025.

**Principal District Judge,
Tiruvannamalai**

ORDER
IA.4/2024 in
O.S.No.89/2019
D.O.O:20.11.2025