

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NOS.11193-11194 OF 2013

SANMARGA SANGAM

REP. BY ITS SECRETARY R.GOPINATH PAI

PETITIONER(S)

VERSUS

P.SRINIVASAN & ANR.

RESPONDENT(S)

O R D E R

The petitioner herein has assailed the order of the High Court as also the trial court whereby the plaintiff was allowed to the extent of amending the plaint provided he paid the deficit court fee. The order was challenged by the plaintiff-petitioner before this Court relying upon a notification gazetted on 8.12.2010 whereby the provision had been laid down in regard to the fixation of court fee payable in respect of declaration of title over the immovable properties belonging to temples and charitable institution under Tamil Nadu Court Fees and Suits Violation Act. The notification clearly laid down as follows :-

"In exercise of the powers conferred by Section 73 of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), the Governor of Tamil Nadu hereby reduces to a maximum of rupees one hundred, the fee payable under the said Act in respect of the Suits filed by religious institutions for restoration of immovable properties and for declaration of title over the immovable properties of temples under the control of the Hindu Religious and Charitable Endowments Department."

Learned counsel submitted that the contents of the notification could not be brought to the notice of the trial court as a result of which the trial court directed to pay ad volorum deficit court fee on the suit which have been filed by the petitioner. It has been submitted that in view of the notification, the maximum amount of court fee payable by the charitable and religious institutions is limited to Rs.100/-, which is clear from the aforesaid notification.

The aforesaid position in regard to the contents of the notification could not be disputed by Mr. R. Balasubramaniam, learned senior counsel appearing for the respondent also, as a result of which, we find substance in the request made by Ms. Latha Krishnamoorthy, learned counsel appearing for the petitioner, that the trial court may be left with the liberty to re-determine the court fee on a fresh application being filed by the plaintiff before the trial court. We accede to this request and, thus, grant permission to the petitioner to file such application regarding the re-determination of the court fee by drawing the attention of the trial court to the notification as also its effect while determining the court fee.

It is obvious that if such an application is filed, the defendant-respondents shall be at liberty to contest the same, on any legal and sustainable ground that may be available to them which could not have been contested at this stage.

Learned senior counsel for the respondents, however, submitted that the notification will not confer any benefit on the petitioner-institution as the petitioner-institution cannot be

held eligible to claim entitlement to the benefit of this notification since the institution cannot be treated as a religious institution. We leave it open to the trial court to look into this aspect of the matter also and finally come to a finding whether the benefit of the notification can be made available to the petitioner so as to pay the court fee to the extent of Rs.100/- only as this Court has not gone into the question of eligibility as that is left open to be decided by the trial court.

The defendant respondents thus will also be at liberty to contest the matter in accordance with law.

In view of the aforesaid order the special leave petitions are disposed of.

.....J.
(GYAN SUDHA MISRA)

.....J.
(J. CHELAMESWAR)

NEW DELHI
APRIL 29, 2013.

ITEM NO.47

COURT NO.13

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).11193-11194/2013

(From the judgement and order dated 08/01/2013 in CRP (PD)No.3824/2012 and CRP (PD)No.4052/2012 of The HIGH COURT OF MADRAS)

SANMARGA SANGAM

REP. BY ITS SECRETARY R.GOPINATH PAI

PETITIONER(S)

VERSUS

P.SRINIVASAN & ANR.

RESPONDENT(S)

(With prayer for interim relief)

Date: 29/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr. Lata Krishnamurti, Adv.
Dr. B. Kalaivannan, Adv.
Mr. Neeraj Shekhar, Adv.
Mr. Ashutosh Thakur, Adv.
Mr. Pranav Diesh, Adv.
Mr. P.R. Mala, Adv.
Mr. Ashish Dixit, Adv.
Mr. V. Pari Vallal, Adv.

For Respondent(s) Mr. R.Balasbramanian, Sr.Adv.
Mr. Karunakaran, Adv.
Mr. Ananda Bhagavathi, Adv.
For Mr. S. Gowthaman, Adv.

UPON hearing counsel the Court made the following
O R D E R

The special leave petitions are disposed of in terms of the
signed order.

| (Neetu Khajuria)

| (Sneh Bala Mehra)

|
| Sr.P.A.

| Court Master

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(Signed order is placed on the file.)