

\200
C.A.No. 173-174 OF 2000
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

ITEM NO. 101 P.H. COURT NO. 6 SECTION XII

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS. 173-174 OF 2000@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

M. Jeevamani and Anr. ... Appellant (s)

Vs.

Nehru Memorial College Committee and Ors... Respondent (s)

(With office report)

Date: 15-02-2001 This/These matter(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For appellant (s) Mr. K Parasaran, Sr.adv.
Mr. V Balachandran, adv.
Mr. Senthil Jagadeesan, adv.

For respondent (s) Mr. Gopal Subramaniam, Sr.adv.
Mr. CK Rajan, adv.
Mr. Harishankar K., adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J.
.SP2

Mr. K. Parasaran, learned senior counsel resumed his arguments at 10.50 a.m. and concluded at 11.45 a.m. Thereafter Mr. Gopal Subramaniam, learned senior counsel started his arguments and concluded at 12.25 p.m. Hearing concluded. The Court dictated an order allowing the appeals with no order as to costs.

.SP1
(Neelam Kawatra) (S. Krishnan)
Court Master Court Master

Signed order is placed on the file.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.173-174 OF 2000

M. Jeevamani & Anr.

& Appellants

Vs.

Nehru Memorial College Committee & Ors.

& Respondents

O R D E R

The appellants herein filed a suit under Section 92 of the Code of Civil Procedure. In the said suit, the appellants moved an application for leave of the Court to file the said suit. The said application was rejected as according to the Court, there was no Trust. A revision petition was filed before the High Court but the same was dismissed. By means of these appeals, the appellants have challenged the validity of the judgment of the High Court.

When the case was taken up, Mr. Gopal Subramaniam, learned senior counsel appearing for the respondents stated that the respondents have no objection if the judgment under appeal is set aside and the appellants herein be granted leave to file suit provided all the questions regarding existence of the Trust too are left open to be decided in the said suit. Shri K. Parasaran, learned counsel appearing for the appellants has no objection. On the basis of the agreement between the parties, we set aside the judgment under appeal and consequently we grant leave to the appellants to file the suit under Section 92 of the Civil Procedure Code. However, we make it clear that any observation made by the trial Court or by the High Court will not come in the way of the trial Court in deciding the suit on merits. It will be open to the defendants-respondents herein to raise objections regarding jurisdiction of the Court and the existence of the Trust.

With these observations, the appeals are allowed. There shall be no order as to costs.

& & & & & & & & & & .J.

(V.N. Khare)

& & & & & & & & & & .J.
(Daraiswamy Raju)

New Delhi,
February 15, 2001.

1

1