

SUPREME COURT OF INDIA

N.Sugalchand Jain

Vs.

Mittalal Jain

C.A.Nos.4210-4211 of 2008

(Altamas Kabir and G.S. Singhvi JJ.)

02.07.2008

ORDER

1. Leave granted.

2. The respondent No.1 herein, Shri Mittalal Jain, founded the Sayarbai Educational and Charitable Trust on 9th October, 1997. By a supplementary deed dated 12.2.2001, he became the Chairman-cum-Managing Trustee for life of the Trust. Subsequently, on 12.5.2005, the appellant and his two sons were also made Trustees. Subsequently, in a meeting held on 13.5.2008, the appellant, as alleged by him, is said to have been made the Managing Trustee of the Trust. Thereafter, disputes arose with regard to the management of the Trust and the Institution being run by it which led to the filing of two suits, being OS No. 83/2007 filed by the respondent No.1, in the Court of Principal District Judge, Vellore. The appellant also filed OS No. 76/2007 and in both the suits applications were made for grant of interim orders.

3. Ultimately, the prayer for interim order made by the appellant in his suit was allowed and that of the respondent No.1 was refused. Against the said order, two Civil Miscellaneous Appeals were filed and both are pending in the High Court.

4. The High Court by a common order dated 28.5.2008 stayed the operation of the interim order passed in the appellant's favour and the respondent No.1 Mittalal Jain, therefore, became entitled to act as Chairman/Managing Trustee of the Trust and the Institution and the appellant herein, along with respondent Nos.3 to 5 herein, were restrained from interfering in any manner with his functioning as such Chairman/Managing Trustee of the Trust and the Institution. This special leave petition has been filed against the said judgment and order of the High Court.

5. During the course of the hearing a suggestion was made by both the parties that till the suits were disposed of, some suitable arrangement could be made for management of the Trust, as also the Institution, whereby the interest of the Trust and the Institution would be

secured. The proposal, therefore, mooted for the appointment of a Receiver to run the affairs of the Trust and the Institution till the suits were decided.

6. Having regard to the aforesaid submissions made on behalf of both the parties, we dispose of the appeal by appointing Hon'ble Mr. Justice K.P. Sivasubramanian, retired Judge of the Madras High Court, as the Administrator of the Sayarbai Educations and Charitable Trust, Kaniyambadi, Vellore, and the Educational Institution, namely, Ganadipathy Tulsi's Jain Engineering College, Chittoor, Cuddalore Road, Kaniyambadi, Vellore-632102. The Administrator shall assume charge of the affairs of the Trust and the Educational Institution on or before 15.7.2008. Both the appellant and the respondent No.1 shall cooperate with the Administrator in enabling him to take charge of the Trust as well as of the Institution and shall make over to him whatever records are available with them.

7. The Administrator is also authorized to operate the Bank Accounts of the Trust and the Institution. For the time being, in place and stead of the appellant and the respondent No.1, who are entitled to operate the said Bank Accounts of the Trust and Institution, the Administrator shall be entitled to operate the said accounts. The Administrator shall be provided with transport and such Ministerial staff, as he may require in carrying out his duties and day-to-day functions, and the expenses therefor shall be met from the funds of the Trust. Having regard to this order being passed by us, the Civil Miscellaneous Appeals pending before the High Court shall stand disposed of.

8. The interim orders as passed in the two pending suits shall stand modified by this order. The learned Judge, before whom the two suits are pending, shall make earnest endeavours to dispose of the same as expeditiously as possible, but preferably within a period of one year from the date of communication of this order. The honorarium of the Administrator is fixed at Rs. 75,000/- (Rupees Seventy Five Thousand) p.m. While deciding the pending suits the learned Judge is not to be influenced in any way by any of the directions contained in this order.

9. This order is being passed without prejudice to the rights and contentions of the parties in the suit.

10. The Administrator appointed by us will be at liberty to request the appellant as well as the respondent No.1 to assist him in the administration of the Trust and the Institution.

11. The appeals are disposed of. The impugned order of the High Court is set aside. There will be no order as to costs.

12. The Registry is directed to send a copy of this order to the Hon'ble Mr. Justice K.P.Sivasubramanian. The parties are also directed to communicate this order to the learned Judge.