

MONDAY THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND TEN

PRESENT

THE HONOURABLE MR. JUSTICE K. VENKATARAMAN

M.P.NO.2 OF 2008
IN
C.R.P. No. 3314 of 2007

1. Sri Aurobindo Ashram Trust
rep. By its Managing Trustee
Manoj Das Gupta
Puducherry

2. Manoj Das Gupta
3. Dr. Dilip Kumar Datta
4. Avinash Patel alias Albert
5. Prabhakar Rupanagunta @ Batti

... Petitioners

Vs

1. Jayashree Prasad
2. Arunashri Prasad
3. Rajyashree Prasad
4. Nivedita Prasad
5. Hemalatha Prasad

.. Respondents

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to clarify the order dated 4.8.2008 in M.P.1 of 2008 in CRP (PD) No.3314/07 and specify the management of the Boarding home to which the petitioners are required to pay for the boarding and lodging of the respondents and the amounts to be paid to the respondents for their expenses.

CRP.(PD)No.3314/07:- filed U/Art.227 of the constitution of India against the fair and decretal order dated 30.1.2007 in C.M.A.No.35 of 2005 on the file of the Additional Subordinate Judge, Puducherry confirming the order dated 10.6.2005 in I.A.No.1500 of 2005 in O.S.No.409 of 2005 on the file of the Principal District Munsif, Pondicherry.

ORDER:- This Petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and the order dt.4.8.2008 in M.P.1 of 2008 on the file of this High Court in CRP 3314/2007 and upon hearing the arguments of Mr.C.A.Diwar, Advocate for the Petitioner the Court made the following order:-

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The petitioners originally approached this Court by filing Civil Revision Petition in C.R.P.(PD) No. 3314 of 2007, challenging the fair and decretal order dated 30.01.2007 made in C.M.A.No. 35 of 2005 on the file of the Additional Sub-Judge, Puducherry, which was filed against the order dated 10.06.2005 made in I.A.No. 1500 of 2005 in O.S.No. 409 of 2005 on the file of the Principal District Munsif, Pondicherry.

2. The defendants in O.S.No. 409 of 2005 before the learned Principal District Munsif, Pondicherry, were the petitioners in the revision and the plaintiffs thereon, were the respondents. The respondents have filed the said Suit against the petitioners for the following reliefs:-

- i. To declare that the impugned report dated 10.1.2005 submitted by the enquiry officer to the second Defendant-Managing Trustee as perverse, not based on any evidence against principles of natural justice, biased, illegal and non-est in the eye of law.
- ii. To declare that the expulsion of plaintiffs from Sri Aurobindo Ashram based on the impugned report dated 10.1.2005, as illegal, arbitrary, mala fide and violative of principles of natural justice.
- iii. To restrain the defendants their men, agents and successors in office from denying depriving and stopping the food, clothing, shelter and other necessities of the plaintiffs, due to the arbitrary and illegal act of expulsion by the defendants based on the impugned report dated 10.1.2005 by way of permanent injunction.

3. In the said suit, the respondents took out an application in I.A.No. 1500 of 2005 for interim injunction restraining the petitioners herein and their men from denying, depriving and stopping their basic necessities like food, clothing, shelter and other amenities and facilities till disposal of the suit. The said application was allowed by the learned trial Judge by his order dated 10.6.2005. Questioning the said order of the learned trial Judge, the petitioners herein preferred an appeal in C.M.A.No. 35 of 2005 before the learned Additional Subordinate Judge, Pondicherry. The said order was confirmed by the appellate Judge. However, the respondents were not allowed to render service in the Ashram. The said order was under challenge in the present Revision. "

3. After elaborately considering the rival submissions, I have passed the following order on 29.01.2008 :-

"Taking into consideration the totality of the circumstances, I am of the considered view that the following

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order shall meet the ends of justice :-

- i. The petitioners herein are bound to provide all the facilities, basic amenities which they were enjoying hitherto to the respondents.
- ii. The first and second respondents shall intimate the petitioners the place of their choice to reside till the disposal of the suit within one week from the date of receipt of the copy of this order by registered post with acknowledgement.
- iii. On receipt of the same, the petitioners shall pay all charges for the boarding, food etc., to the Management of the Boarding.
- iv. The petitioners shall also pay reasonable amount to the respondents for their clothing and for other basic amenities.
- v. The above direction shall be carried out by the petitioners till the disposal of the suit in one way or other.
- vi. The learned Principal District Munsif, Puducherry, is directed to dispose of the suit as expeditiously as possible preferably on or before 30.4.2008, uninfluenced by the orders passed by the trial Judge, appellate Judge and by me in this Revision."

4. Later, the application in M.P.No. 1 of 2008 in C.R.P. (PD) No. 3314 of 2007 was filed by the petitioners for clarification of the order regarding the place where the respondents should reside and also the quantum of money to be paid for clothing and other basic amenities. By an order dated 04.08.2008, I have passed the following order :-

"7. While disposing of the representation on 29.01.2008, I have taken into consideration that it may not be in the interest of the respondents, to reside in the Ashram, since already a complaint had been made against the inmates of the Ashram. Considering the said fact in mind, I have directed them to reside elsewhere and the petitioners have been directed to provide monetary help for their stay outside. Further the management have been directed to provide amount not only for boarding, but also for food, clothing and for other basic amenities. As stated already, considering the safety of the respondents, it would be more appropriate to direct them to choose a place which is not owned by the Ashram and they shall do so by intimating the petitioners of their choice of residence till the disposal of the suit within one week from the date of receipt of the copy of the order by registered post with acknowledgment. On receipt of the same, the petitioners shall pay all the charges such as boarding, food, clothing etc.,. I hope that atleast by now, the respondents will forthwith decide the place of their choice and intimate the same to the petitioners within the time stipulated by this

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Court without insisting for resident in the Ashram or the property owned by the Ashram and also without insisting the food in the same Ashram.

8. The learned Principal District Munsif, Puducherry, is directed to dispose of the suit as expeditiously as possible preferably on or before 31.10.2008.

9. Though I have directed the learned Principal District Munsif to dispose of the suit on or before 31.10.2008, it is represented by the learned counsel that the transfer application is pending before the Principal District Judge, Puducherry in Tr.O.P.No. 85 of 2002 and hence the learned District Munsif could not take up the suit. Considering the above facts and circumstances by consent, I direct the learned Principal District Judge, Puducherry, to dispose of the Tr.O.P.No. 85 of 2002 as expeditiously as possible preferably within two weeks from the date of receipt or production of the order whichever is earlier so as to enable the learned Principal District Munsif to dispose of the suit as directed by this Court.

This petition is ordered accordingly."

5. Later, the present application in M.P.No. 2 of 2008 in C.R.P.(PD) No. 3314 of 2007 was filed to clarify the order dated 4.8.2008 made in M.P.No. 1 of 2008 in C.R.P.(PD) No. 3314 of 2007. The reason for moving such application was set out in paragraphs 6 to 8 of the affidavit filed in support of the application in M.P.No. 2 of 2008 in C.R.P.(PD) No. 3314 of 2007, which is extracted hereunder:-

"6. The petitioners state that they had made a request to the "Sea Side Guest House" for details of availability of rooms and their tariff. The petitioners were shocked to learn that the "Sea Side Guest House" charges a rent ranging from Rs.850/- per day to Rs.1400/- per day depending on the nature of accommodation selected and have only double bedded or triple bedded accommodation, which are given only on a daily basis to their customers and neither had the respondents ever contacted the "Sea Side Guest House" for the availability of the accommodation there. The petitioner states that the respondents have categorically informed the petitioner vide their letters dated 23.09.2008 and 26.10.2008 that after having indicated their choice of the Boarding House, no further obligation for compliance is cast upon them by the order of this Hon'ble Court and thereafter it is instead the sole responsibility of the petitioner to arrange that accommodation is provided to the respondents in the Boarding House of their choice. The petitioners state that it is quite clear that the

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respondents are not interested in shifting to any boarding houses on their own. The respondents are not interested in complying with the order of this Hon'ble Court and are evading the issue by taking advantage of the latitude given by this Hon'ble Court. The respondents who do not intend to comply with the orders of this Hon'ble Court are making such demands knowing fully well that the respective owners are not in a position to give the accommodations as indicated by the respondents to the petitioners.

7. The petitioners state that the suit O.S.No. 409 of 2005 has been posted for trial and the respondents are required to file their proof affidavit.

8. The petitioners state that in the light of the conduct of the respondents, they are left with no other option but to come before this Hon'ble Court once again seeking clarification that the accommodation to which the respondents are required to shift to may be specified by this Hon'ble Court, that the amount to be given to them towards their expenses may also be specified so that the petitioners would be in a position to comply with the directions of this Hon'ble High Court."

6. Originally, Mr.K.Bijai Sundar, the learned counsel appeared for the respondents. On several occasions the matter was posted and arguments have been heard. On 15.03.2010, a memo was filed by the learned counsel appearing for the respondents stating that he is reporting "No Instructions". Hence, the registry was directed to print the name of the respondents and post the matter next week. On 16.06.2010, the matter was listed printing the name of the respondents, but, none of the respondents appeared, hence, the matter was directed to be posted "For Orders" on 18.06.2010. Thereafter, the matter was ordered to be posted "For Orders" on 21.06.2010. Even today (21.06.2010), there is no representation on behalf of the respondents. Therefore, this Court is constrained to pass orders on merits on the application filed by the petitioners.

7. While passing orders on 29.01.2008 in C.R.P.No. 3314 of 2007, I have taken into consideration that it may not be in the interest of the respondents, to reside in the Ashram, since already a complaint had been made about the inmates of the Ashram and keeping this in my mind, I have directed them to reside elsewhere and the petitioners were directed to provide monetary help for their stay outside. The petitioners were directed to provide amount not only for boarding, but also for food, clothing and for other basic amenities. The said order came to be passed by me considering the safety of the respondents and also for the reason that it would be more appropriate for them to live outside at the cost of the petitioners. While so, it is alleged the respondents in order to stay in the Ashram are refusing to get accommodated in the

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other places under one pretext or other. Now, it has been brought to the notice by the learned counsel appearing for the petitioners that "JENNY WORKING WOMEN'S HOSTEL" at No.2, IInd Cross Street, Sarathy Nagar, Pondicherry-605 011, and its annexe at No.1, 6th Cross, Brindavan, Pondicherry would be a safe place for the respondents and they can be directed to live there till the disposal of the suit.

8. Since, the respondents did not appear before this Court, considering the averments made by the learned counsel appearing for the petitioners that the said Hostel is a safe place for the respondents to live, I am inclined to allow this application and pass the following order by way of clarification to the order made in C.R.P. (PD) No. 3314 of 2007 dated 29.01.2008:-

i. The respondents shall vacate the Ashram and they shall accommodate themselves at "JENNY WORKING WOMEN'S HOSTEL" at No.2, IInd Cross Street, Sarathy Nagar, Pondicherry-605 011 and its annexe at No.1, 6th Cross, Brindavan, Pondicherry on and from 15.07.2010.

ii. The cost of the accommodation including food is stated to be Rs.3,000/- per month and the same shall be borne by the petitioners.

iii. Apart from the said amount, the petitioners shall also bear a sum of Rs.2,800/- to each of the respondents for other expenses, which shall be deposited in a Bank, if the respondents furnish Bank Account or the same shall be sent to the respondents by Money Order on or before 10th of every month starting from July 2010.

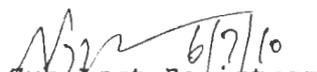
iv. In view of the orders passed hereunder, in the Commissioner's Report, especially, "Note" underneath Paragraph 7, viz., "Note: The head is not willing to take the respondents as there was a problem created by ashram management earlier in getting the respondents admitted there. But the head said that the respondents are good ladies except for the bad experience created by the ashram management. No lift", which is irrelevant, is hereby eschewed.

Sd/
Asst. Registrar
28.6.2010

*Amended order to be issued.

Sd/-
Asst Registrar
6.7.2010

/true copy/


Sub Asst. Registrar

paas

Bi 0042212

To

1. The Additional Subordinate Judge,
Puducherry

2. The Principal District Munsif,
Puducherry

3. The District Judge, Puducherry.

To be substituted
order already
despatched on
30.6.2010

+lcc to Mr.C.A.Diwekar, Advocate Sr 47516

KA(CO)
km/29.6.
SR/6.7.2010

Dated: 21.06.2010

ORDER

M.P.No.2 of 2008
in
CRP (PD) No.3314/07

Bi 004221

MP 2 / 08 vs
CRP (PD) 3314 / 07

HIGH COURT OF JUDICATURE	
MADRAS.	
S.R. No.	47516
Carbon Copy application	
made.	21/7/2006
Application Returned	200
Application Represented	200
Copy made ready	06/7/2006
Copy Delivered	07/7/2006
	<i>[Signature]</i> 21/7/06
	Section Officer Current Section