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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDCITON

CIVIL APPEAL NO. 12 OF 2016
(Arising out of S.L.P. (Civil) No. 25788 of 2013)

Sri Aurobindo Ashram Trust and Ors. ...Appellants

Versus

R. Ramanathan and Ors. ...Respondents

JUDGMENT

Madan B. Lokur, J.

1. Leave granted.

2. The dispute that has arisen in this appeal is one that could have and ought to have been settled in the first instance in the Trial Court. Unfortunately, the feelings (if not the animosity) between the parties have run so high that any meaningful discussion between them to sort out the pending issues has been ruled out. When feelings are strong (and get further hardened over time) and tempers are high, there is a loss of balance and equilibrium. It is unfortunate that this state of mind has persisted with both parties who are well educated and perhaps have a philosophical and spiritual bent of mind, being trustees and residents of the Sri Aurobindo Ashram in Pondicherry and followers of Sri Aurobindo.

3. On our part, we attempted to amicably sort out the problem between the parties, but one of them refused to appreciate the meaning of 'dissociation' while the other expressed the view that mere dissociation was not enough and there must be condemnation! At the end of the day, we felt that each party wanted to score a brownie point over the other, little realizing that while they would be left with some ephemeral brownie points, the brownies (and the cream) would be shared by somebody else. In

another decision altogether, this Court had occasion to remark that public trusts for charitable and religious purpose are run for the benefit of the public. No individual should take benefit from them. If the persons in management of the trusts are subjected to multiplicity of legal proceedings, funds which are to be used for charitable or religious purposes would be wasted on litigation.[1] How true.

4. It is time for all of us, litigants, lawyers and judges to introspect and decide whether a litigation being pursued is really worth the while and alternatively whether an amicable dispute resolution mechanism could be availed of to settle the dispute to the satisfaction of the litigants. Most problems have a positive solution and a concerted effort must be made by all concerned to find that solution of least resistance to the problem. This is not only in the interest of the parties involved but also in the larger interest of the justice delivery system.

The facts

5. The respondents are residents of or are otherwise concerned with the Sri Aurobindo Ashram in Pondicherry. They filed a civil suit being O.S. No. 15/2010 [2] before the District Judge, Pondicherry under the provisions of Section 92 of the Code

[1] Vidyodaya Trust v. Mohan Prasad R, (2008) 4 SCC 115

[2] Subsequently renumbered as O.S. No.15/2011

of Civil Procedure (hereinafter referred to as the 'CPC'). 3 It was prayed therein that appellants 2 to 6 who are the trustees in the Sri Aurobindo Ashram Trust (appellant No. 1 and hereinafter referred to as 'the Trust') be removed and new trustees be appointed since these appellants have failed the philosophy of Sri Aurobindo and the Mother. A prayer was also made for settling a scheme for the administration of the Trust.

Plaint filed by the respondents

6. The averments made in the plaint principally pertain to a book titled "The Lives of Sri Aurobindo" written by one Peter Heehs and the fall out thereafter. The book purports to be a biography of Sri Aurobindo and was published in May 2008 by Columbia University Press in the United States. For convenience, and for no other

[3] 92. Public charities.--(1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained

the leave of the Court, may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the State Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree--

(a) removing any trustee;

(b) appointing a new trustee;

(c) vesting any property in a trustee;

(cc) directing a trustee who has been removed or a person who has ceased to be a trustee, to deliver possession of any trust property in his possession to the person entitled to the possession of such property;

(d) directing accounts and inquiries;

(e) declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;

(f) authorising the whole or any part of the trust property to be let, sold, mortgaged or exchanged;

(g) settling a scheme; or

(h) granting such further or other relief as the nature of the case may require.

(2) xxx xxx xxx xxx

(3) xxx xxx xxx xxx

reason, this book is hereafter referred to as the book or the objectionable book.

7. The respondents summarized their grievances in paragraph 2 of the plaint and the relevant portion thereof reads as follows:-

> "The plaintiffs who represent the interest of the community of followers, devotees and disciples of Sri Aurobindo (for whose benefit the Trust was created) are constrained to file the present suit, inter alia seeking the removal of the present Trustees when the Trustees acted in bad faith and in breach of their obligations as trustees. Instead of promoting Sri Aurobindo's tenets and philosophy, the Trustees have and continue to harbor, defend and openly extend support to one Mr. Peter Heehs who authored "The Lives of Sri Aurobindo", a sacrilegious book which falsely portrays Sri Aurobindo as a liar and a mentally imbalanced person, and ridiculing his spiritual encounters and experiences as an outcome of Sri Aurobindo's tantric sexual indulgence and schizophrenic state of mind. The fact that such an offensive and venomous book was authored by none other than one of the Ashram's own members, sent shock waves throughout the community of thousands of devotees and disciples' of Sri Aurobindo. Masses of devotees appealed to the Trustees to publicly condemn the content of the book and to clarify that the book was not an official publication/work supported by the Trust, and further to seek the expulsion of Peter Heehs from the Ashram. Instead of publicly dissociating itself from Peter Heehs and his book, the Trustees in absolute breach of trust, have for over two years harbored Peter Heehs within the Ashram itself and gone to the extent of standing as a financial guarantor for Peter Heehs' conduct for his visa renewals. Despite mass public outcries to the Trustees to
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> i. expel Peter Heehs.
>
> ii. condemn and dissociate the Trust from the sacrilegious work

iii. stop the circulation of the book so as to protect the future interest of the trust

The Trustees, in pursuit of some hidden agenda, chose to protect and render support to that very individual who has maliciously disparaged, debased and brought disrepute to Sri Aurobindo's philosophy and the ashram community at large. The Trustees have repeatedly disobeyed and declined to carry out the directions of the Settler of the Trust, failed to execute the trust in accordance with its object of Trust and have thus acted in gross dereliction of their duty as trustees. The repeated conduct and failure of the Trustees has proven that the Trustees are unfit and incapable of administrating the trust in conformity with the ideals of Sri Aurobindo. Thus it is in the interest of the trust and its beneficiaries to remove the existing trustees and consequently appoint new trustees having faith in Sri Aurobindo's philosophy and ideals and who are capable of administering the trust and protecting its interest in accordance with its objects."

8. More specifically, it was stated that the book contains deliberate and baseless distortions relating to the life of Sri Aurobindo, inter alia, to the effect that he had romantic affairs with the Mother involving veiled tantric sexual practices; that he was

a frequent liar and lied about his spiritual experiences; that his spiritual experiences were based on sexual and schizophrenic stimuli and that he was the initiator of the Hindu-Muslim divide and was responsible for the partition of the country.

9. It was stated that Peter Heehs claimed to be one of the founders of the archives of the Sri Aurobindo Ashram whereas the sole founder was one Jayanthilal Parekh and that this impersonation was mala fide and malicious to lend credibility to his book.

10. In sum and substance, according to the respondents what was outrageous and intolerable, as far as they and other devotees and inmates of Sri Aurobindo Ashram are concerned, was:

"a) That the author of the deeply offensive book against Sri Aurobindo was none other than one of the ashramites;

b) That an individual who had been allowed to reside, use and benefit from the facilities and resources of the Ashram to pursue spiritual enlightenment through Sri Aurobindo's philosophy had instead flagrantly misused the Ashram's name and its resources to launch a disparaging attack on the soul and foundations of the Ashram, its faith, tenets and beliefs;

c) That Peter Heehs, the author has intentionally tried to mislead the public to believe that the sacrilegious work has been published in consultation/affiliation with the Ashram by audaciously claiming that he is one of the "founders of the Ashram Archives" in a clear attempt to give credibility to the source and foundation of a book.

d) That the book was made possible by extensively misusing the Ashram's own research database and resources to which Peter Heehs had privileged access, and which has been gathered and developed over 40 years by the Ashram's inmates, devotees and researchers, and includes rare materials of great historical value. This database which is intended to document the greatness of Sri Aurobindo's life and work was misused by Peter Heehs to misrepresent Sri Aurobindo in bad light.

e) Work done by large teams of dedicated inmates of the Ashram over 40 years was claimed by Peter Heehs to be his own personal research in the book.

f) Some of the rare materials published by Peter Heehs in his book were without proper permission of the Sri Aurobindo Ashram Trust."

11. In view of the above, the respondents and others made several petitions to the appellants including on 20th September, 2008 and 2nd October, 2008 but the appellants

did not take any remedial action either in respect of the objectionable book or in respect of Peter Heehs. It was stated that one Pranab Bhattacharya, the Head of the Physical Education Department had expelled Peter Heehs from the Physical Education Department of the Ashram on 30th October, 2008. The expulsion notice was displayed prominently on the notice board but in spite of such and other actions, the appellants failed to take any appropriate corrective measures.

12. It was stated in the plaint that through a communication made on 11 th November, 2008 the Trust expressed and admitted its displeasure with the contents of the book written by Peter Heehs and claimed that disciplinary action had been initiated against him. It was clarified that Peter Heehs was not the founder of the archives of the Ashram but Jayanthilal Parekh was its founder. However, this does not appear to have satisfied the respondents.

13. Quite independent of the actions taken within the Ashram, some devotees of Sri Aurobindo took other proactive measures to stop the circulation of the objectionable book. This eventually led the Government of Orissa to order forfeiture of the book under Section 95 of the Criminal Procedure Code 4 for being a work punishable under

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95. Power to declare certain publications forfeited and to issue search warrants for the same.-- (1) Where--

(a) any newspaper, or book, or

(b) any document,

wherever printed, appears to the State Government to contain any matter the publication of which is punishable under Section 124-A or Section 153-A or Section 153-B or Section 292 or Section 293 or Section 295-A of the Indian Penal Code (45 of 1860), the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In this section and in Section 96,--

(a) "newspaper" and "book" have the same meaning as in the Press and Registration of Books Act, 1867 (25 of 1867);

Section 295-A of the Indian Penal Code.5

14. The forfeiture process was initiated by one of the devotees of Sri Aurobindo who filed a writ petition in the Orissa High Court being W.P. No. 15939 of 2008 to prohibit the printing, publication and distribution of the objectionable book. This led the Orissa High Court to pass an order on 4 th November, 2008 requiring the petitioner therein to make a representation to the Government of India which in turn was required to pass an order on the representation. The petitioner did make a representation and the Government of India passed an order in December, 2008 directing the State Government of Delhi and the Union Government in Pondicherry to ensure that there should be no publication of the objectionable book without obtaining a no objection from the Government of India.

15. The Government of Orissa also independently examined the matter and on 9 th April, 2009 a Gazette Notification was issued in which grounds were given to conclude that the objectionable book contained matters which were deliberately and maliciously intended to insult the religious beliefs of the devotees of Sri Aurobindo thereby affecting public peace and tranquility making the publication of the objectionable book an offence punishable under Sections 295-A and 153-A of the

(b) "document" includes any painting, drawing or photograph, or other visible representation.

(3) No order passed or action taken under this section shall be called in question in any Court otherwise than in accordance with the provisions of Section 96.

5 295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.--Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Indian Penal Code.6 Therefore, every copy of the objectionable book, its copies, reprints, translations or other documents containing extracts taken therefrom was forfeited to the Government.

16. The relevant extract of the Gazette Notification dated 9 th April, 2009 reads as follows:

S.R.O.NO.127/2009 - Where as on a careful consideration of materials placed on record, it appears to the State Government that the book titled as 'The Lives of Sri Aurobindo" written by Peter Heehs and published by Columbia University Press, New York, U.S.A. contain objectionable matters depicting distorted facts about the

life and character of Sri Aurobindo. And whereas the State Government, on the following grounds, is of the opinion that the said book contains matters which a re deliberately and maliciously intended to insult religious beliefs of millions of Indians who idolize Sri Aurobindo as a National Hero and incarnation of "Almighty" and which promotes communal disaffection affecting public peace and tranquility the publication of which is punishable under sections 295A and 153A of the Indian Pe nal Code,1860 (45 of 1860), namely -

(a) the book depicts wrong and distorted facts on the life and character of Sri Aurobindo, which is clearly blasphemous

(b) the book contains absurd, irrelevant and self-made stories, which do not hav e any scriptural support and has caused widespread indignation amongst the devotees

(c) the writings portrayed in the book have seriously hurt the sentiments of the apostles of Sri Aurobindo and the said book, with deliberate and malicious inten tion

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153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.--(1) Whoever--

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of bir th, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, languag e or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or

(c) organizes any exercise, movement, drill or other similar activity intending that t he participants in such activity shall use or be trained to use criminal force or violenc e or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be tr ained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religio us, racial, language or regional group or caste or community and such activity, for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurit y amongst members of such religious, racial, language or regional group or caste or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc.--(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

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has insulted the religious beliefs of millions;

(d) the said book, inter alia, narrates at page 245 that "but those familiar with the literature of psychiatry and clinical psychiatry may be struck by the similarity between Aurobindo’s powers and experiences and the symptoms of schizophrenia";

(e) it is mentioned at page 399 that "Early in the afternoon the Mother rejoined him, and they walked together to the small outer room where they sat together on a sof a, the Mother on Sri Aurobindo’s right. Here they remained for the next few hours as ashramites and visitors - more than three thousand by the end of the 1940s - pass

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before them one by one, "There is no suggestion of a vulgar jostle anywhere in th
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moving procession," a visitor noted. "The mystic sits bare-bodied except for a pa
rt of
his dhoti thrown around his shoulders, A kindly light plays in his eyes," Sri
Aurobindo looked directly at each person for a moment "the moving visitor is
conscious of a particular contact with these [eyes] as he bends down to do his
obeisance. They leave upon him a mysterious ‘feel’ that baffles description. The
contact, almost physical, instills a faint sense of a fragrance into his heart an
d he has a
perception of a glow akin to that spreading in every fibre of his being." Most vi
sitors
had similarly positive experiences. But some, particularly those from the West, w
ere
distracted by the theatricality of the setting and the religiosity of the pageant
ry."
Now, therefore, in exercise of the powers conferred by Sub-section (l) of section
95 of
the Code of Criminal Procedure, 1973 (2 of 1974), the State Government do hereby
declare that every copy of the book titled "The Lives of Sri Aurobindo" written b
y
Peter Heehs and published by Columbia University Press New York, U.S.A. its
copies, reprints, translations or other documents containing extracts taken there
from
be forfeited to the Government.

17. Notwithstanding the above coercive action taken by the Government of Orissa and the Government of India, the appellants did not take any steps to expel Peter Heehs from the Ashram or to sever all ties of the Trust with him; no restatement was made by the Trust disassociating itself from the objectionable book and no steps were taken by the appellants to stop the publication of the book by contacting Columbia University Press in the United States, while independent organizations such as Google, Flipkart and A1 Books made the objectionable book permanently unavailable on their websites and through sales channels in India.

18. On the contrary, the appellants stood financial guarantee for renewal of Peter Heehs’ visa to stay in India. Notwithstanding this, the devotees of Sri Aurobindo and the residents of the Ashram continued to persuade the appellants and addressed to them further letters dated 28th May, 2010 and 2nd July, 2010 and several other letters.

The only replies received from the appellants were on 21 st June, 2010 and 22nd July, 2010 but no clear stand was taken therein to redress the grievances of the respondents. It was alleged in the plaint that these acts of omission and commission by appellants Nos. 2 to 6 was a clear indication that they were mismanaging the affairs of the Trust and needed to be removed.

19. Leave to sue was granted by the Trial Judge to the respondents and summons was then issued in the civil suit to the appellants who preferred I.A. No. 494 of 2011 to revoke the leave granted. This application was dismissed by the Trial Judge by an order dated 6th October, 2012.

Order of the Trial Court

20. The Trial Court was of the view that where leave is granted under Section 92 of the CPC without notice to the defendants in the suit, those defendants would have a right to apply for revocation of leave. However, since leave was granted to the respondents in the present case after giving full opportunity to the appellants to put forth their case, the question of revocation would arise only after evidence is led in the matter and on final determination of the suit.

21. The Trial Court rejected the contention of the appellants that the documents referred to and relied upon by the respondents were fabricated on the ground that this could be adjudicated only after oral and documentary evidence was led on both sides in a full-fledged trial. It was also noted that several impleadment applications were filed in the suit for being heard in the matter. Therefore if leave is revoked, those applicants would lose their right and the real truth would not come out.

22. Based on the above reasoning the Trial Judge rejected the application to revoke the leave granted to the respondents.

23. Feeling aggrieved, the appellants preferred a civil revision petition being C.R.P. (P.D.) No. 4357 of 2012 which came to be dismissed by the impugned judgment and order dated 2nd April, 2013 by the Madras High Court.7

Decision of the High Court

24. The High Court took the view that the main allegation in the plaint is with regard to the objectionable book written by Peter Heehs who was allowed to reside in the Ashram and allowed access to the archives of the Ashram.

25. The High Court took into consideration the law laid down by this Court in Swami Parmatmanand Saraswati v. Ramji Tripathi 8 to hold that only the allegations in the plaint should be looked into in the first instance to determine whether the suit filed by the respondents falls within the scope and ambit of Section 92 of the CPC. However, reliance was also placed on Vidyodaya Trust v. Mohan Prasad R & Ors.9 to hold that the Court should go beyond the relief prayed for and focus on the basis on which the suit was filed and whether it was for vindicating public rights. Taking the law into consideration as well as the averments made in the plaint, the High Court held as follows:

> "According to me, for the purpose of deciding the issue involved in this revision, there is no necessity to go into the veracity of the contents of the book. Admittedly, th

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plaintiffs have not filed the copy of the book and it is their allegation that the book has not been published in India and it will be available for access only through the Internet.

7 Sri Aurobindo Ashram Trust & Ors. v. S. Ramanathan & Ors, MANU/TN/0541/2013

8 (1974) 2 SCC 695

9 (2008) 4 SCC 115

> In my opinion, in the absence of producing the book before this court, it is not possible to comment on the statements made in the book about Sri Aurobindo. Even assuming that in the said book, derogatory remarks are made against Sri Aurobindo and his relationship with the Mother, in my opinion, the revision petitioners cannot be held responsible for the same as admittedly, the revision petitioners have not sponsored the book nor published the book under the aegis of Aurobindo Ashram. The only allegation made against the revision petitioners is that they have not taken any steps to remove such a person from the Ashram. According to me, such inaction on the part of the revision petitioners cannot be brought into the caption of breach of trust. Nevertheless, having regard to the scope of section 92 of the Code of Civil Procedure and as per the law laid down by the Honourable Supreme Court in Vidyodaya Trust case, the court has to go beyond the relief and focus on the basis for which the suit was filed to find out whether a suit can be entertained under section 92 of the Code of Civil Procedure."

26. Thereafter, the High Court held that since the Ashram had nothing to do with the publication of the objectionable book by one of its inmates it could not be held that there is a breach of trust. However (and this is important) the High Court concluded that since the appellants had not taken any action to secure the ban of the objectionable book or to take any action against Peter Heehs, the respondents had made out a case to bring the suit within the ambit of Section 92 of the CPC and therefore the Trial Court was right in rejecting the application to revoke leave. It was also held that under these circumstances, the respondents had no personal interest in the matter and the suit was not filed by them to vindicate any personal interest. Consequently, they had the necessary locus to file a suit under Section 92 of the CPC.

27. The High Court also held, reversing the Trial Court in this regard, that merely because leave had been granted after hearing the appellants, it would not be a ground to deny to them the right to file an application for revocation of leave.

28. On the above basis, the High Court rejected the revision petition and it is under these circumstances that the rejection is under challenge before us.

Discussion and findings

29. The sum and substance of the grievance of the respondents is really two-fold: firstly, the appellants failed to take any positive action to prohibit the availability of the objectionable book or dissociate themselves from the objectionable book; secondly, instead of taking some coercive action against Peter Heehs (such as removing him from the Ashram) the appellants assisted him in getting a visa for his continued stay in India by standing guarantee for him.

30. In our opinion, the second grievance would arise only if there is substance in the first grievance, namely, that the appellants failed to take proactive measures to have the objectionable book proscribed and that they failed to dissociate themselves from the contents of the book. This really begs the question whether the objectionable book ought at all to be proscribed or its sale prohibited. As we have seen above, the matter is very much alive before the Orissa High Court and it is for that Court to take a final call on the legality or otherwise of the action taken by the concerned authorities in the State in prohibiting the availability of the objectionable book. Until that decision is taken by the High Court, it would be premature to hold that the book is objectionable enough as not to be made available to readers.

31. In Swami Paramatmanand Saraswati it was held by this Court (relying upon several earlier decisions) that it is only the allegations made in the plaint that ought to be looked into in the first instance to determine whether the suit filed lies within the ambit of Section 92 of the CPC. It was also held that if the allegations in the plaint indicate that the suit has been filed to remedy the infringement of a private right or to vindicate a private right, then the suit would not fall within the ambit of Section 92 of

the CPC. Finally, it was also held that in deciding whether the suit falls within the ambit of Section 92 of the CPC, the Court must consider the purpose for which the suit was filed. This view was reiterated in Vidyodaya Trust.

32. Considering the purpose of the suit filed by the respondents, it is quite clear that it was to highlight the failure of the appellants to take action against the availability of the objectionable book and against the author. As we have noted above, the issue whether the book is objectionable or not, whether it deserves to be proscribed or not, whether it violates the provisions of Section 153-A or Section 295-A of the Indian Penal Code has yet to be determined by the Orissa High Court. Until that determination is made, it would be premature to expect the appellants to take any

precipitate action in the matter against the author.

33. The best that the appellants could have done under the circumstances was to make it clear whether they have anything to do with the objectionable book or not. The High Court has noted quite explicitly that the appellants have not sponsored the book nor was it published under the aegis of the Aurobindo Ashram. The appellants have also, it may be recalled, expressed displeasure with the contents of the objectionable book through the communication of 11th November, 2008. This being the position, we are of the opinion that the appellants have done what could reasonably be expected of them in relation to the objectionable book, pending a determination by the Orissa High Court.

34. The High Court has effectively faulted the appellants for not making the first strike to secure a ban on the objectionable book. This is really a question of the degree

of reaction to the objectionable book on which we would not like to comment. The appellants could have expressed their displeasure over the contents of the objectionable book, or dissociated themselves from the objectionable book or even taken proactive steps to have the objectionable book banned or proscribed. That the appellants chose only to express their displeasure may be construed as a mild reaction (as compared to outright condemnation of the objectionable book), particularly since the appellants had nothing to do with its publication. But the question is whether the mild reaction is perverse or could in any way be held to be a breach of trust or an absence of effective administration of the Trust warranting the removal of the trustees. We do not think so. Failure to take steps to ban a book that is critical of the philosophical and spiritual guru of a Trust would not fall within the compass of administration of the Trust. It might be an omission of the exercise of proper discretion on the part of the trustees, but certainly not an omission touching upon the administration of the Trust. We are not in agreement with the High Court that the failure of the appellants to take the initiative in banning the objectionable book gives rise to a cause of action for the removal of the trustees of the Trust and settling a scheme for its administration. The trustees of a trust are entitled to a wide discretion in the administration of a trust. A disagreement with the exercise of the discretion (however passionate the disagreement might be) does not necessarily lead to a conclusion of maladministration, unless the exercise of discretion is perverse. In our opinion, the High Court ought to have allowed the application filed by the appellants

for the revocation of leave granted to the respondents to initiate proceedings under

Section 92 of the CPC, in the facts of this case.

35. We were invited to express a view on the constitutional freedom of speech and expression guaranteed by Article 19 (1) (a) of the Constitution. It is not at all necessary for us to do so. The Orissa High Court might be called upon to do so, depending on the views of the contesting parties, one of whom we were told, is the author of the objectionable book. We express no opinion on the issue and leave the matter at that.

36. This being our conclusion with regard to the first grievance of the respondents, their second grievance is rather premature. It would arise only if and when appropriate directions are issued by the Orissa High Court in the pending litigation.

Conclusion

37. We find merit in the appeal and accordingly set aside the impugned judgment and order of the High Court and allow the application filed by the appellants for revocation of leave. The parties are left to bear their own costs and once again consider an amicable settlement of their dispute.

.....J
(Madan B. Lokur)

.....J
(S. A. Bobde)

New Delhi;
January 5, 2016

ITEM NO.1A COURT NO.8 SECTION XII
(For Judgment)

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

Civil Appeal No.12/2016
(@ Special Leave to Appeal (C) No.25788/2013)

SRI AUROBINDO ASHRAM TRUST AND ORS Petitioner(s)

VERSUS

R RAMANATHAN AND ORS Respondent(s)

Date : 05/01/2016 This appeal was called on for pronouncement of judgment today.

For Petitioner(s) Mr. Sanjay Parikh, Adv.
Ms. N. Susan, Adv.

Ms. Anitha Shenoy,Adv.

For Respondent(s) Mr. S. S. Shroff,Adv.

Mr. Bijan Kumar Ghosh,Adv.

Mr. Rajesh Srivastava,Adv.

Mr. Pukhrambam Ramesh Kumar,Adv.
Mr. Sumit Kumar Vats, Adv.

Hon’ble Mr. Justice Madan B. Lokur pronounced the reportable judgment of the Bench comprising His Lordship and Hon’ble Mr. Justice S.A. Bobde.

Leave granted

The appeal is allowed in terms of the signed reportable judgment.

(Meenakshi Kohli)
Court Master

(Suman Jain)
Court Master

[Signed reportable judgment is placed on the file]