



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Fourteenth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.3182 of 2021
IN
SA.No.1859 of 2003

1 THIRUVADI NARAYANAN (DIED)

2.K.ARUMUGAM ... PETITIONERS/APELLANTS

Vs

1 THE DISTRICT COLLECTOR,
TIRUNELVELI DISTRICT,
KOKKIRAKULAM, TIRUNELVELI DISTRICT.

2 THE COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT DEPARTMENT,
UTHAMAR GANDHI ROAD, CHENNAI 34.

3 THE ASSISTANT COMMISSIONER
RELIGIOUS AND CHARITABLE ENDOWMENT DEPARTMENT,
TIRUNELVELI.

4 P.T.SAKKRAYUTHA NARAYANA KONAR

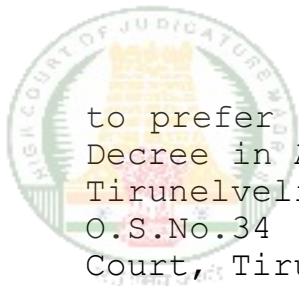
(THE 4th RESPONDENT ALREADY GIVEN
UP IN MAIN SECOND APPEAL)

... RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to allow the amendment in the plaint OS No.34 of 1992 on the file of IInd Additional District Munsif Court, Tirunelveli containing particulars of amendment described in the schedule of the accompanying petition.

PRAYER IN SA.1859/2003:

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased



to prefer this Memorandum of Second Appeal against the Judgment and Decree in A.S.No.199 of 2002 on the file of the Principal Sub-Judge, Tirunelveli dated 17.07.2003 reversing the Judgment and Decree in O.S.No.34 of 1992 on the file of the II Additional District Munsif Court, Tirunelveli dated 31.10.2001.

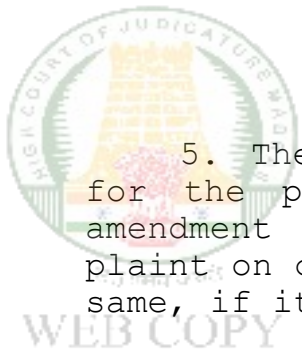
ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.SENGU VIJAY, Advocate for the petitioner and of Mr.A.KANNAN, Additional Government Pleader on behalf of the Respondents No.1 to 3, the court made the following order:-

Learned counsel appearing for the petitioners would submit that the temple in question is a denominational temple and subsequently the Government has appointed a fit person. Therefore, in case, if the Court finds that the appellant is not entitled to get the relief of injunction, the prayer has to be amended for recovery of possession. The amendment sought for in the application is not raising a new case and there is no new cause of action arose and no prejudice would be caused to the respondents.

2. The learned Additional Government Pleader appearing for the respondents would submit that even prior to the filing of the suit, the Government appointed the trustee and the suit temple was under the control of the Government and subsequently, a fit person was also appointed. Even at the time of filing the suit itself the cause of action for present relief sought in the amendment petition is available, the petitioner omitted to seek the same, therefore at the second appeal stage, the plaint cannot be amended, since it has introduced a new case and therefore, prayed for dismissal of the petition.

3. Heard the learned counsel appearing for the appellant and the respondents.

4. The first appeal and second appeal are continuous of proceedings of the suit and it is settled proposition of law that the amendment can be made at any stage, provided, subject to the satisfaction of the condition stipulated in the amended Civil Procedure Code under Order VI Rule 17. Whether the suit temple is a denominational temple, whether the Government is having authority to appoint a fit person or not, is the subject matter of the suit, but however, pending suit, the Government has appointed the fit person. Now the temple is administered by the fit person, therefore, amending the prayer will not raise a new cause of action. Once the suit for declaration is filed the prayer for injunction or recovery of possession or mandatory injunction are the consequential reliefs, unless the relief of declaration is allowed, the consequential relief cannot be granted. Therefore, mere amending the plaint will not prejudice to the respondents.



5. Therefore, this petition is allowed. The learned counsel for the petitioner is directed to carry out the necessary amendment in the plaint and also file the amended copy of the plaint on or before 21.06.2023. Registry is directed to receive the same, if it is otherwise in order. List the matter on 22.06.2023.

sd/-

14/06/2023

/ TRUE COPY /

21/06/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AM

TO

1 THE PRINCIPAL SUBORDINATE JUDGE,
TIRUNELVELI.

2 THE II ADDITIONAL DISTRICT MUNSIF,
TIRUNELVELI.

COPY TO:

1 THE SUB-ASSISTANT REGISTRAR
A.E. SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

2 THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

3 THE SECTION OFFICER,
V.R. SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

4 Mr.M.SENGU VIJAY,
ADVOCATE,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN

CMP (MD) No.3182 of 2021
IN

SA.No.1859 of 2003

Date :14/06/2023

SA/VR/SAR. /21.06.2023/3P/7C

<https://www.mhc.tn.gov.in/judis>