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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.07.2023
Delivered on : 10.11.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.1779 of 2023
and
C.M.P(MD)No.8860 of 2023

1.Arulmighu Rakaachi Amman Thirukovil
Through its Present Trustee,
Vaazhaikulam Village,
Mamsapuram,
Srivilliputhur Taluk,
Virudhunagar District.

2.Rakkappan

... Petitioners/Petitioners/
Defendants 1&2

Vs.

1.Rakkappapillai
2.Raman @ Kannan

...Respondents/Respondents/
Plaintiffs

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 03.06.2023 in I.A.No.3 of 2022 in O.S.No.76 of 2022 on the file of the learned Principal District Munsif and Judicial Magistrate No.I, Srivilliputhur.

For Petitioners :Mr.VR Shanmugam
For Respondents :Mr.K.Sudalaiyandi

**ORDER**

This civil revision petition is filed as against the decreetal order, dated 03.06.2023 passed in I.A.No.3 of 2022 in O.S.No.76 of 2022 by the learned Principal District Munsif and Judicial Magistrate No.I, Srivilliputhur.

2. According to the revision petitioners/defendants 1 & 2, the respondents/plaintiffs filed a suit in O.S.No.76 of 2022 before the Principal District Munsif, Srivilliputhur, for permanent injunction. During the pendency of the said suit, the petitioners filed an application in I.A.No.3 of 2022, to reject the plaint on the ground that there is no cause of action to file the suit and also on the ground of jurisdiction. The said application was resisted on the side of the respondents/plaintiffs stating that only at the time of trial, the plaintiffs can establish their case. However, the trial Court considering the submission made on either side, dismissed the above application. Aggrieved by this, the present civil revision petition is preferred.

3. The learned counsel appearing for the revision petitioners would submit that the suit filed by the respondents/plaintiffs is expressly barred under Section 108 of the Tamil Nadu Hindu Religious and Charitable Endowments Act (hereinafter referred to as HR&CE Act) and hence, it is liable to be rejected by invoking the provisions under Order 7 Rule 11 of CPC. The learned counsel would further submit that there is no cause of



action arose to file the above suit, since the plaintiffs claim that they are performing pooja and other religious activities in the Temple which is in dispute. Therefore, the plaintiffs have right to perform pooja for festival and dates, whereas, the revision petitioners/defendants 1 and 2 are managing the poojas of the Temple. As per Section 55 of the HR&CE Act, poojari is a servant of the Temple and no one is entitled to succeed poojariship. Only Trustee is entitled to control the servant of the Temple, as per Section 56 of the HR&CE Act. The learned counsel further contended that under Section 63(e) of the HR&CE Act, the Joint Commissioner alone is the authority to decide as to whether any one is having any entitlement in the Temple and decide the custom of a particular temple. Moreover, as per Section 108 of the HR&CE Act, a civil suit is expressly barred in matter relating to the administration and for reliefs provided under HR&CE Act. The learned counsel further contended that the plaintiffs claim that they are the poojaris of the Temple in question, but hereditary of the poojari was abolished even as early as 1976. Since the revision petitioners are in administration of the affairs of the Temple, the plaintiffs are under the control of the revision petitioners only. The competent authority as per Section 63(e) of the Act, has to decide the custom of the Temple and their religious activities. Since the suit is barred under Section 108 of HR&CE Act, the trial Court ought to have allowed the application filed by the revision petitioner to reject the plaintiff.



4. On the other hand, the learned counsel appearing for the respondents would submit that the suit Temple do not come under the purview of the HR&CE Act. Since the revision petitioners were restraining the plaintiffs from performing the pooja in the petition mentioned Temple, the respondents/plaintiffs were constrained to file the above suit for permanent injunction. The learned counsel further submitted that the defendants have encroached into the property of the Temple and in order to overcome the same, they have filed the present application to defeat the rights of the plaintiffs. Hence, the trial Court has rightly dismissed the application which calls for no interference.

5. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

6. It is not in dispute that the plaintiffs are performing the pooja in the petition mentioned Temple. Whether the alleged temple comes under the purview of the HR&CE or whether the plaintiffs are the hereditary poojaris can be decided only by proper adjudication. As per the plaint averments, on 24.01.2022, when the plaintiffs were performing the pooja in the Temple, the petitioners attempted to prevent them from conducting the pooja in the Temple. Hence, they were constrained to file the above suit for permanent



injunction. It is also submitted that the plaintiffs, as legal heirs of one Ramaiah Pillai, who executed a Will in favour of the plaintiffs and from then onwards, the plaintiffs are performing pooja in the Temple.

7.All the above facts, can be elucidated only at the time of trial. Therefore, no interference is called for in the order of the trial Court and hence, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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To

1.The Principal District Munsif
and Judicial Magistrate No.I,
Srivilliputhur.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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