



S.A.No.720 of 2000

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

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1.Hindu Okkaligar (Kappu) Gowder
Rebbivar Kula Dhayathikal
Karuppannasamy Kovil,
Narpani Mandram
through its President
Thiru.R.Thangaraj,
S/o.Ramasamy Gownder
Kariyanampatti,
Pannaipuram Post,
Uthamapalayam Taluk, Theni Dt.

2.Thoppannan(Deceased)

...1st & 3rd defendant/
Appellant/Appellants

(President of the appellant Sangam, is substituted vide
Court order dated 09.03.2017 made in M.P.No.1 of 2012)

-Vs-

1.Dhasia Gounder(Died)
2.Govinda Gounder
3.Krishna Gounder
4.Thiruppathi Gounder



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5.Naguthai
6.Leelavathi
7.Jayaraman
8.Ranjitham
9.Kokila

...Plaintiffs 3to11/
Respondent 1to9/Respondents 1to9

10.Natarajan

...2nd Defendant/
Respondent/Respondent No.10

11.Krishnammal(Died)
12.D.Ponraj
13.Pandurengan
14.Lakshmi
15.Chandra

(R11 to 15 are brought on record as LRS of
the deceased 1st respondent vide Court
order dated 25.02.2022)

(R11 died and there is no necessity to implead her LRS
as her LRS viz., R12 to R15 are already on record
vide Court Order dated 25.02.2022)

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree dated 19.06.1998 passed in A.S.No. 113 of 1995 by the Additional District Court, Dindigul, in confirming the judgment and decree dated 30.01.1995 passed in O.S.No.445 of 1985 by the Additional District Munsif, Dindigul.

For Appellants : Mr.P.Athimoolapandian

For R2 : Mr.S.Madhavan

For R3toR9, 12to15: No appearance



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J U D G M E N T

The appellants are the defendants and the respondents 1 to 9 are the plaintiffs 3 to 11, who have filed the suit in O.S.No.445 of 1985 before the Additional District Munsif Court, Dindigul, for permanent injunction restraining the appellants/defendants and their members of the society and agents from in any manner interfering with the possession of the plaintiffs' peaceful right of poojas and enjoyment of the suit properties till their service are terminated under due process of law.

2. The trial Court, after the trial, decreed the suit in favour of the respondents 1 to 9/plaintiffs. Challenging the said judgment and decree passed by the trial Court, the first and third appellants/defendants filed an appeal before the Additional District Court, Dindigul, in A.S.No.113 of 1995.



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3. The first appellate Court, after hearing the appeal, dismissed the same. Therefore, challenging the said judgment and decree of the lower Appellate Court, the first and third appellants/ defendants have filed the present second appeal before this Court.

4. The case of the respondents 1 to 9/plaintiffs is that the suit properties situated at Kalikkampatty Village, Dindigul Taluk. The respondents 1 to 9/plaintiffs are the hereditary trustees and they are also cultivating the lands and out of their income, they are doing poojas in Arulmigu Karuppannasamy and Perumal Temple. In the said temple, the respondents 1 to 9/plaintiffs are doing daily pooja and special poojas on Tuesday, Friday and Saturday and also Annual Festival on Tamil Ani Month. In the years 1975 and 1981, the respondents 1 to 9/plaintiffs along with the plaintiffs' father have renovated the said temples and performed Maha Kumbabishegam. Further, it is stated that the respondents 1 to 9/plaintiffs also paid the contribution to the HR&CE Board. After abolition of Minor Inam, ryotwari patta also granted in favour of the plaintiffs' father viz., late



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Pappaiah Gowder and after his demise, patta was transferred in the name of the first plaintiff. The respondents 1 to 9/plaintiffs are paying kist and electricity charges and hence, the respondents 1 to 9/plaintiffs are in peaceful possession and enjoyment of the trusteeship and also poojari-ship of the suit temples. Subsequently, the appellants/defendants along with other elements joined together and formed a society in the name and style of Hindu Okkaligar (Kappu) Gowder Rebbivar Kula Dhayathikal Kauppannasamy Kovil Narpani Mandram and it was registered in Registration No.84/84 for attempting to interfere with the daily poojas of the plaintiffs and also attempting to interfere with their peaceful possession and enjoyment of the temple lands. Therefore, the respondents 1 to 9/plaintiffs filed the suit not to disturb for performing the daily pooja and other poojas, unless their services are terminated under due process of law.

5. The case of the appellants/first and third defendants is that neither the respondents 1 to 9/plaintiffs nor the father of the plaintiffs viz.,



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Pappaiah Gowder were the hereditary trustees of the deity Karuppannasami, which is the family deity of the community of Hindu Okkaligar (Kappu) Gowder of Rebwar Kulam. The members of the said Community constructed the temple several years ago. The temple thus continued to be the family temple of the said community Kula Dhayathikal. Originally, one Pappaiah Gowder was poojari, but, the entire administration, management and control of the temple were done by the Committee among the members of the said community. The poojaris have no other right, except to do the poojas. After the death of the said Pappaiah Gowder, the first plaintiff was doing poojas. The other plaintiffs have no right, except the fact that they are the sons of Pappaiah Gowder and they were not doing any poojas in the temple. Further, it is stated that no daily poojas are conducted in the temple. It is true that there is an annual festival in the Tamil month of Ani, but, the same was done only by the Committee and not by the respondents 1 to 9/plaintiffs. The first appellant/defendant's community people used to worship the suit deity on Maha Sivarathiri in the month of Masi and neither the respondents 1 to 9/plaintiffs nor their father renovated the temple and



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did Maha Kumbabishegam. The same was done by Kula Dhayathikal, who worshipped the temple with their contribution by way of cash and donations. The deity of Karuppannasami was endowed with an Inam land it was an Iruvarem inam in favour of the deity. The respondents 1 to 9/plaintiffs have no individual right in the said property. After the abolition of Minor Inam, Ryotwari patta was granted to the deity of Karuppannaswami. The respondents 1 to 9/plaintiffs have no individual right. The first plaintiff, who was only described as a poojari of the deity of Karuppannaswami, filed the suit in individual names saying that all the respondents 1 to 9/plaintiffs are enjoying the properties by tentative arrangement which will show that they are converting the properties for their personal use. Further, it is stated that no income was spent for the temple and it is for the first appellant/defendant community. The management of the temple was done by the committee. As the members of Kula Dhayathikal felt that the function of committee was not satisfactory, they decided to convene a general body meeting on 23.09.1984. The meeting was convened on that date and all the respondents 1 to 9/plaintiffs



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were present in the said meeting. Thiru. Thoppannan was elected as President and the second respondent was elected as Secretary and one Ramaswamy Gowder was elected as Treasurer and eight members were elected as members of the committee. The plaintiffs 2, 3, 5 & 6 have signed in the said resolution. The third plaintiff has also handed over all the account books and has made an endorsement in the minutes book to that effect. Therefore, the committee has taken the administration of the temple and they are in possession of the property. The first plaintiff, who is a poojari, has locked the temple and prevented the members of the community to offer their worship. In view of the unlawful attitude of the first plaintiff in locking the temple, the poojas were performed outside the temple. The committee only was managing and maintaining the temple. The first plaintiff is only poojari and other plaintiffs have no right and they are not trustees of the temple. The right of the poojary is only limited to render poojas to the temple and they have no right for getting an order of injunction against their persons, who held the administration of the temple and they are not entitled to prevent the members of the first



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appellant/defendant's community from worshipping the deity. Therefore, the suit filed by the respondents 1 to 9/plaintiffs is not maintainable.

6. This Court, while admitting the second appeal has formulated the following substantial question of law:

“Whether the judgments and decrees of the Courts below are sustainable in law as the lower Court has not appreciated the entire evidence and the relevant provisions of law applicable to the facts of this case?”

7. The learned counsel appearing for the appellants would submit that the respondents 1 to 9/plaintiffs are not entitled to any right and title over the property and even the suit filed by the respondents is not maintainable. The civil Court has no jurisdiction to decide the rights of poojary. The respondents 1 to 9/plaintiffs are not hereditary trustees of the suit temple. The trial Court and the lower Appellate Court failed to consider the facts that in the absence of any oral and documentary evidence,



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erroneously gave findings that the respondents 1 to 9/plaintiffs are the hereditary trustees. After the death of Pappaiah Gowder, the first plaintiff was doing pooja service as poojari of the suit temples and never acted as trustee of the temples. Both the Courts below have not properly adverted to Ex.B.2 Inam Register, wherein, the properties in question stands in the name of Karuppannasamy Temple only and not in the individual name of predecessor-in-office of the respondents 1 to 9/plaintiffs. The learned counsel further would submit that the suit properties absolutely belonged to the temple and the predecessor-in-office of the respondents 1 to 9/plaintiffs and the respondents have acted as poojaris during pooja service to that temple. The suit temple was constructed only by the respondents 1 to 9/plaintiffs and their predecessor-in-office. But the temple has been maintained only by the community people and the respondents 1 to 9/plaintiffs herein participated in the community meetings and submitted the accounts as would be evident from Ex.B.6 to Ex.B.9. The respondents 1 to 9/plaintiffs herein had not allowed the community people to do the worships by locking the suit temple and therefore, they are not entitled for any



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injunction as sought for by them. Under Ex.A.42, it is proved that the Society was declared as defunct by the competent authority from the date of filing of the suit. Both the Courts below failed to consider the said aspect and it vitiates the entire findings rendered thereupon. The trial Court erroneously held that the respondents and their predecessor-in-office were poojaris of the suit temple as the hereditary trustees in the absence of any documentary evidence to prove the said fact. The equitable relief of injunction could not have been granted, when the respondents 1 to 9/plaintiffs having been acted in an unfair and most inequitable manner in preventing the members of the first appellant/defendant community from worshipping the suit temple by rejecting the independent witnesses of D.W. 1 to D.W.5. The suit filed against the first appellant/defendant, which was the defunct society, as evidenced by Ex.A.42, is not maintainable. Both the Courts below failed to appreciate the oral and documentary evidence and granted the relief of injunction and the suit is also barred for mis-joinder of unnecessary parties and the suit ought to have dismissed on that scope also. The respondents 1 to 9/plaintiffs are not the hereditary trustees of the suit



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temple and the findings in that regard by the trial Court are not legally sustainable and binding on the appellants in view of Section 63(a) r/w 108 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

8. The learned counsel appearing for the second respondent would submit that in this case, HR&CE department was not a party. The respondents 1 to 9/plaintiffs have not filed the suit for declaration declaring the suit properties belonged to them as hereditary trustees, since their father Pappaiah Gowder performed the pooja of Karuppannaswami temple and they enjoyed the property and out of the income, they are performing the poojas and conducting the festival and also renovated the temple and conducted Kumbabishegam and also contributing to the HR&CE Board. The learned counsel would further submit that both the Courts below have rightly held that the appellants/defendants could not interfere with the performance of poojas of the respondents 1 to 9/plaintiffs, after the death of their father Pappaiah Gowder. The appellants/defendants themselves admitted that the father of the respondents 1 to 9/plaintiffs was performed



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the poojas and after his demise, the first plaintiff was doing the pooja.

Therefore, once admitted the respondents/plaintiffs are performing the poojas, the appellants/defendants cannot interfere with their function, until their services are terminated under due process of law.

9. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the second respondent and perused the materials available on record.

10. The existence of the temple is not in dispute. The father of the plaintiffs viz., Pappaiah Gowder was performing pooja is also not in dispute. After his demise, the first plaintiff was performing the pooja which is also not in dispute. The property belonged to the deity and not on the individual name. Therefore, no individual is entitled to claim right over the property. Further, a perusal of the records clearly reveals that since already stated, the existence of deity is admitted and also the title is in favour of the deity only, not on any individual name. On reading of the plaint filed by the



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respondents1 to 9/plaintiffs, it is seen that they have not asked for any declaration declaring that the suit properties or the deity belonged to the respondents/plaintiffs. They are not claiming title for enjoyment of either the property or the deity or they are not claiming any right to manage the property or maintain the deity or administering the deity. In the plaint, they have stated that they are the hereditary trustees and they have not sought for declaration either for the property or for deity or any particular administration or maintenance.

11. Originally, Pappaiah Gowder was performing pooja till his life time and after the death of the said Pappiah Gowder, the first plaintiff was performing the poojas to the deity and even in the written statement filed by the appellants/defendants, it has been stated that there was a dispute regarding performing the poojas, the administration and also regarding the forming of the society. Therefore, the suit was filed only against the Sangam and other individuals and not filed the suit against HR&CE Board and the HR&CE Board was not added as a party. Admittedly, except the first



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plaintiff, other plaintiffs are not performing the poojas. The suit came to be filed against the defendants not to interfere with the respondents 1 to 9/plaintiffs' peaceful possession and enjoyment of the suit property, but however, the relief sought for in the plaint is for permanent injunction restraining the defendants, their members of the society and agents from in any manner interfering with the plaintiffs 3 to 11 peaceful right of poojas possession and enjoyment of the suit properties, till their service are terminated under due process of law. The records would show that after abolition of minor inam and ryothwari patta was granted in the name of the deity of Karuppannaswami. Further, the respondents 1 to 9/plaintiffs are not entitled to enjoy the property. It is not the service inam and the properties were not granted to the poojaris for rendering their services and therefore, the respondents/plaintiffs do not have any individual right in the suit property and they are only entitled to perform the poojas and even they sought for relief until the service are terminated under due process of law. The respondents/plaintiffs have not sought for any declaration declaring either the property belonged to the respondents 1 to 9/plaintiffs or the



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poojaris. Hence, whatsoever, the rights given in the judgment of both the Courts below will not bind the appellants/defendants, since the property stands in the name of the deity. If the respondents/plaintiffs act against the interest of the deity or the properties, the appellants can move HR&CE department to remove them from the poojari-ship. Therefore, this Court finds that there is no perversity in appreciation of evidence.

12. As far as the ouster of the civil Court jurisdiction is concerned, the respondents/plaintiffs have not filed the suit against HR&CE department and only they have filed the suit against the appellants/defendants for not to interfere with the performance of poojas. Therefore, the trial Court and the Lower Appellate Court have rightly appreciated the oral and documentary evidence and granted the limited relief of permanent injunction. The suit is not either for declaration or for possession or right to be appointed as a poojaris and therefore, once the appellants/defendants themselves admitted that the Pappaiah Gowder was performing the poojas and after his demise, the first plaintiff was performing the poojas, though there is no material to



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show that they are the hereditary poojaris or trustees. They have not also filed a suit for declaration to declare them as hereditary trustees or the poojaris. Therefore, the second appeal is dismissed. However, in case, the respondents 1 to 9/plaintiffs are acting against the interest of the deity or the property stands in the name of the deity or not performing the poojas to the deity, they are at liberty to move HR&CE Department and the service of the respondents/plaintiffs can be terminated in the manner known to law. However, the respondents/plaintiffs having no right over the property or the deity and they are not hereditary trustees or poojaries. They are having only the right to perform the poojas in a dignified manner until their service are being terminated by due process of law.

13. With the above observation and direction, this second appeal is dismissed. No costs.

21.04.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No



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P.VELMURUGAN,J.

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To

- 1.The Additional District Court,
Dindigul.
- 2.The Additional District Munsif,
Dindigul.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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