



S.A.(MD) No.761 of 2008

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A. (MD) No.761 of 2008

1.Subramania Pattar

2.Gomathi Ammal

... Appellants

-VS-

1.Arunachalam

2.Sethuramalingam

3.Arul Migu Sankaranarayana Devasthanam,
represented through its Executive Officer,
Sankarankoil – 627 756,
Tirunelveli District.

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure against the judgment and decree, dated 08.03.2008, passed in A.S.No.29 of 2007 on the file of Sub-Court, Sankarankoil, confirming the judgment and decree, dated 21.12.2006, passed in O.S.No.352 of 2005 on the file of Principal District Munsif Court, Sankarankoil.



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For Appellants : Mr.S.Subbiah,
Senior Counsel,
for Mrs.A.Bhuvaneswari.

For Respondents 1 & 2 : Mr.K.Sathiya Singh
For Respondent 3 : No appearance

JUDGMENT

The plaintiffs in the suit are the appellants. The suit was for declaration that the plaintiffs were entitled to perform poojas in the suit temple as per the suit schedule and for consequential injunction restraining the defendants from interfering with the said right. The suit was dismissed by the trial Court and the findings of the trial Court were affirmed by the first appellate court. Aggrieved by the concurrent findings, the plaintiffs are before this Court.

2. According to the plaintiffs, the poojas at Arul Migu Sankaranarayana Temple at Sankarankoil had been performed by 9 families and the first plaintiff's father-in-law and second plaintiff's father - Sankara Pattar was one among such family members. The said Sankara Pattar died 50 years ago, leaving behind his wife - Maragatha Ammal, daughter second plaintiff, and two sons – defendants 1 and 2 , as his legal heirs. Since at the



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time of death of Sankara Pattar, male heirs, namely, defendants 1 and 2 were minors, the first plaintiff - husband of Sankara Pattar's daughter was allowed to perform pooja and he had been doing poojas in the temple as such. All-of-a-sudden, the defendants 1 and 2 made an attempt to interfere with the first plaintiff's right to perform pooja in the suit temple by claiming that they obtained an order from the third defendant for performing pooja in the place of Sankara Pattar. Under these circumstances, the plaintiffs were constrained to file a suit for the above said relief.

3. The defendants 1 and 2 filed a written statement and contended that at the time of death of their father – Sankara Pattar, they were minors and hence the pooja right available to Sankara Pattar was registered in the name of his wife Maragatha Ammal. The first plaintiff – son-in-law of Maragatha Ammal was allowed to perform pooja as a substitute for Maragatha Ammal. The pooja right was not transferred in favour of the first plaintiff. He was allowed to perform pooja only as a substitute. Therefore, the suit filed by the plaintiffs seeking declaration of pooja right, as a matter of fact, was not at all maintainable. The defendants 1 and 2 also claimed that they were hereditary priests of the temple after the death of Maragatha Ammal on 01.08.2004. The defendants 1 and 2, as male heirs, made an application to the temple authorities and got their names registered on 15.09.2005. It was



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also claimed that the defendants 1 and 2 have been doing pooja in the temple from 17.09.2005 onwards. Therefore, it was the case of the defendants that the plaintiffs were not performing pooja on the date of the presentation of the plaint and as a consequence, they sought for dismissal of the suit.

4. The third defendant – Executive Officer of the temple also filed a written statement, stating that after the death of Sankara Pattar, the right to perform pooja in his place was registered in the name of Maragatha Ammal. Since she was a female heir, her son-in-law – first plaintiff was allowed to perform pooja as a substitute. It was also claimed by the third defendant that Maragatha Ammal died on 01.08.2004 and, thereafter, as per the practice prevailing in the temple, the defendants 1 and 2, who were male heirs, were permitted to perform pooja from 17.09.2005.

5. On these pleadings, the parties went to trial and the trial Court, on appreciation of evidence available on record, came to the conclusion that the plaintiffs failed to prove that they were performing pooja on the date of filing of the suit and dismissed the suit. Aggrieved by the same, the plaintiffs preferred an appeal in A.S.No.29 of 2007. The first appellate Court affirmed the findings of the trial Court. Aggrieved by the concurrent findings, the plaintiffs have come by way of this Second Appeal.



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6. The learned Senior Counsel appearing for the appellants submitted that the second plaintiff is one of the legal heirs of Sankara Pattar as well as Maragatha Ammal and hence she was entitled to perform ppooja in the suit temple without any discrimination on the ground of gender. The learned Senior Counsel further submitted that the action of the third defendant in allowing the defendants 1 and 2 to perform pooja in the place of Maragatha Ammal as male heirs was not in accordance with law and the claim of the second plaintiff, as heir of Maragatha Ammal, has been overlooked by the authorities concerned.

7. It is seen from the pleadings of the parties that Sankara Pattar was the priest of the temple, under whom the plaintiffs and the defendants 1 and 2 are claiming right. The said Sankara Pattar died 50 years back even prior to amendment to Section 56 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, abolishing hereditary priest-ship. On the death of Sankara Pattar, the hereditary priest-ship was registered in the name of his wife Maragatha Ammal, as the children of Sankara Pattar were minor at that point of time. Since Maragatha Ammal was a female heir, on her behalf, the first plaintiff, her son-in-law, was allowed to perform pooja. Now, even as per the admitted case of the plaintiffs, Maragatha Ammal died on 01.08.2004. As per the plaint averments, the first plaintiff had been performing pooja in the



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suit temple only as a substitute for Maragatha Ammal. After the death of Maragatha Ammal, the first plaintiff was not entitled to perform pooja as a substitute. In view of the abolition of hereditary priest-ship by amendment to Section 56 of the said Act under Tamil Nadu Act 2 of 1971, the second second plaintiff was also not entitled to claim any right to perform poojas in the suit temple as a heir of Maragatha Ammal. In such circumstances, the declaration sought for in respect of the plaintiffs' right to perform pooja in the suit temple could not be granted and the same was rightly negated by the Courts below. In fact, the Courts below relied on the admission of P.W.1 that the defendants 1 and 2 had been performing pooja as per the orders passed by the temple authorities under Ex.P-2. Therefore, the fact of performing of pooja by the plaintiffs on the date of presentation of the plaint was not at all proved. Hence, the conclusion reached by the Courts below was in accordance with law and I do not see any perversity in the said finding. Accordingly, the Second Appeal stands dismissed. No costs. Consequently, the connected M.P.(MD) No.1 of 2008 is closed.

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To:

- 1.Subordinate Judge,
Sankarankoil.
- 2.Principal District Munsif,
Sankarankoil.
- 3.Section Officer,
V.R. Section,
Madurai Bench of Madras High Court.



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S.SOUNTHAR, J.

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