

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

CRP.No. 141 of 2015 ()

(I.A.NO.191/2015 IN OS.NO.19/2014 OF SUB COURT, CHAVAKKAD)

REVISION PETITIONER/2ND DEFENDANT:

**GURUVAYUR DEVASWOM MANAGING COMMITTEE,
GURUVAYUR DEVASWOM OFFICE, GURUVAYUR,
REPRESENTED BY ADMINISTRATOR/SECRETARY,
GURUVAYUR DEVASWOM OFFICE, GURUVAYUR.**

BY ADV. SRI.P.GOPAL

RESPONDENT(S)/PLAINTIFF AND 1ST DEFENDANT:

- 1. SATHYAN,
S/O. KARIMULLI KESAVAN, KARIMULLI HOUSE,
P.O. NADUVILKKARA, VADANAPPALLI - 680 614.**
- 2. PUTHALATH AYYAPA KSHETHRAM,
REPRESENTED BY SECRETARY, NADUVILAKKARA,
VADANAPPALLI - 680 614.**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 11-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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[CR]

B. KEMAL PASHA, J.

.....
C.R.P. No.141 of 2015
.....

Dated this the 11th day of August, 2015

ORDER

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O.S.No.19/2014 of the Subordinate Judge's Court, Chavakkad is filed by the 1st respondent herein for realisation of an amount of ₹11,35,000/- towards compensation with interest at the rate of 12% per annum from the defendants. The 2nd defendant in the suit is the Guruvayur Devaswom Managing Committee. According to the plaintiff, he was carrying the idol of Devi on the elephant by name “*Seshadri*” belongs to the 2nd defendant on 29.12.2011 at 9.30 p.m. during the festival at the 1st defendant temple. The elephant became violent and ran amok and, the plaintiff was pulled down by the elephant to

the ground thereby he sustained very serious injuries. He has to spend lakhs of rupees for treatment and is still undergoing treatment. The elephant belongs to Guruvayur Devaswom and the same was hired out to the 1st defendant Puthalath Ayyappa Kshethram in connection with the annual festival.

2. The petitioner contended that the suit is not maintainable before the Subordinate Judge's Court, Chavakkad, whereas the suit ought to have been filed before the District Court, Thrissur. The maintainability of the suit was challenged before the court below. The court below, through the impugned order, held that the suit is maintainable before the court below.

3. Even though notice has been served, there is no representation for the respondents. Heard learned counsel for the petitioner.

4. The learned counsel for the petitioner has pointed out that as per Section 2(d) of the Guruvayur Devaswom

Act, 1978,

“Court means the District Court having jurisdiction over the area in which the Temple is situated.”

5. It is also argued that as per Section 21(2)(b) of the said Act, the budgetary provisions of the Guruvayur Devaswom shall contain adequate provision for the due discharge of liabilities binding on the Devaswom. The argument is that when such budgetary provisions do not contain provisions for discharging a liability as the one in the case, the suit is not maintainable.

6. On going through the preamble of the said Act, it seems that the main aim and objective of the Act is for the administration of the temple as well as the control and management of the temple and its properties. It is the admitted case that the elephant belongs to the Guruvayur Devaswom. The same was hired out by another temple. The elephant ran amok, thereby the 1st respondent, who

was sitting on the elephant with the idol, was pulled down by the elephant and fortunately for him, he escaped, but with very serious injuries. He had to undergo surgeries. No doubt, it is a tortuous liability that has arisen in the matter. The Guruvayur Devaswom cannot be heard to say and wash their hands by saying that there is no budgetary provision in the budget of the Guruvayur Devaswom to meet such eventualities and, therefore, the 1st respondent is not entitled to sue the Guruvayur Devaswom.

7. According to the learned counsel for the petitioner, the liability is one claimed against the Guruvayur Devaswom and, therefore, it is a matter of falling within the purview of the Guruvayur Devaswom Act, 1978. In such case, the court, which can entertain the matter, is the District Court under Section 2(d) of the Act. On going through the aims and objectives of the Guruvayur Devaswom Act, 1978 discernible from the preamble, it cannot be said that this is a matter which squarely falls within the purview of the said

Act. This is not a matter which is concerning the administration, control and management of the temple and its properties. Therefore, it cannot be said that the Guruvayur Devaswom Act, 1978 curtails the jurisdiction of the court below to entertain the suit. Such a suit has to be instituted as per the General Law and not based on the Guruvayur Devaswom Act, 1978. Matters being so, the suit is perfectly maintainable before the court below. There is absolutely no illegality, irregularity or impropriety in the impugned order passed by the court below. This CRP is devoid of merits, and is only to be dismissed, and I do so.

In the result, this C.R.P. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/11/08

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PA to Judge