

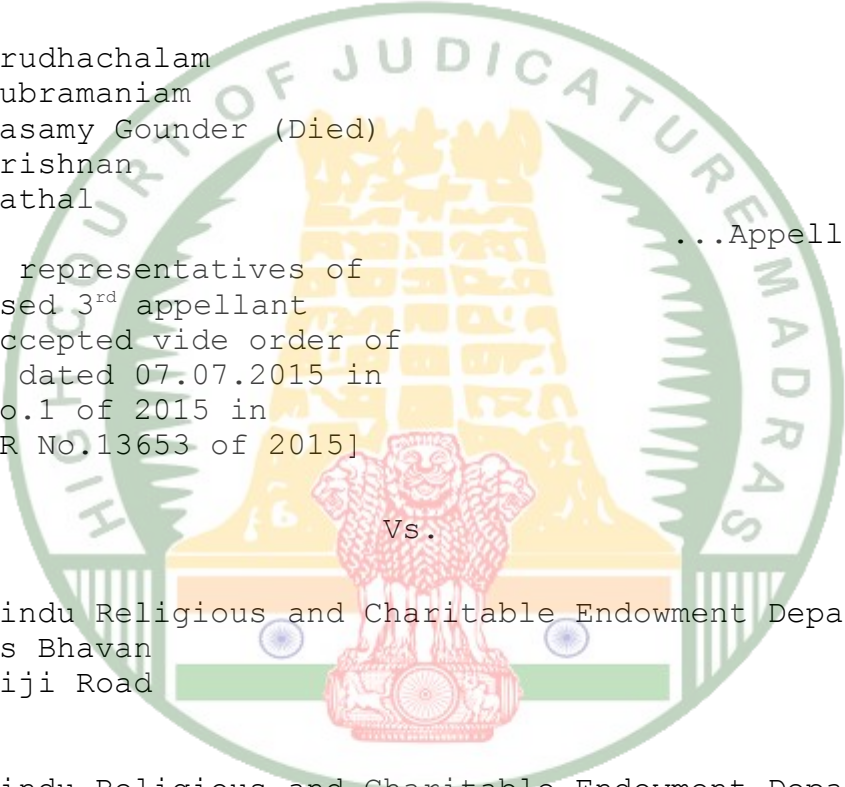
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13 - 07 - 2015

CORAM:

THE HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA

S.A. No. 626 of 2015
and
M.P. Nos. 1 and 2 of 2015

- 
1. N. Marudhachalam
2. Balasubramaniam
3. Chinnasamy Gounder (Died)
4. Balakrishnan
5. Valliathal
6. SelviAppellants/Plaintiffs
Legal representatives of
deceased 3rd appellant
[CT accepted vide order of
court dated 07.07.2015 in
M.P.no.1 of 2015 in
S.A.SR No.13653 of 2015]
- Vs.
1. The Hindu Religious and Charitable Endowment Department
Jawans Bhavan
Gandhiji Road
Erode
2. The Hindu Religious and Charitable Endowment Department
Rep. by its Joint Assistant Commissioner
Dr. Balasundaram Road
Coimbatore
3. The Tahsildar
Office of the Tahsildar
DharapuramRespondents/Defendants
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Appeal under Section 100 of the Civil Procedure Code, against the judgment and decree dated 31.10.2014 passed by the Subordinate Judge,

Dharapuram, in A.S. No. 13 of 2013 confirming the judgment and decree passed by the District Munsif, Dharapuram, in O.S. No. 89 of 2009 on 22.11.2012.

For Appellants : Mr. T. Murugamanickam

JUDGMENT

The plaintiffs, who were non-suited by the concurrent findings of the Courts below as regards their prayer for declaration as they are the absolute owners of the suit properties and for permanent injunction as well as mandatory injunction, challenge the same by way of the present Second Appeal.

2. The plaintiffs / appellants herein claimed to be the owner of the suit properties for more than a century as they had been in possession and enjoyment of the land as per deeds in their favour. Accordingly, the plaintiffs 1 to 4 filed the suit for declaration of title to items Nos. 1 to 4 of suit properties and for permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the suit properties and for mandatory injunction directing the third defendant to remove the words "Pudhur Vinayakar Kovil Superintendence Hindu Religious and Charitable Endowment Department, Coimbatore" in Patta No. 1153 and substitute the same by their name in respect of the suit properties.

3. The defendants contested the same contending that it was an inam devadhayam given in favour of the temple and the plaintiffs cannot have any title in the same. According to the defendants, the plaintiffs are only trespassers in the suit properties.

4. Heard Mr. T. Murugamanickam, learned counsel appearing for the appellants and perused the records.

5. The plaintiffs based their claim on Ex. A.1 lease deed. A perusal of the same would go to show that it was a lease deed granted for the maintenance of the temple. It was a lease in favour of the poojari for the service rendered by him to the temple and it will not confer absolute title over the property.

6. The defendants who claimed the lands as minor inam land had examined D.W.1, who is an Inspector, Hindu Religious and Charitable Endowments Department and marked Ex. B.1 which is the Inam Fair Register. Ex. B.2 is the extract of survey and settlement and Ex.

B.3 is the proceedings of the Settlement Tahsildar. The above documents clearly indicate that the properties are inam granted by Hyder Nawab of Srirangapattinam in favour of Pudur Vinayagar Temple.

7. Even assuming that Ex. A.1 is in favour of the plaintiffs, a reading of the same go to show that the inam lands were given on lease to the pujari, who rendered service to the temple. The plaintiffs who claim that there is no such temple itself, cannot be allowed to claim title to the suit properties in the absence of any service being rendered by them to the temple. Admittedly, the lands are Devadhayam lands and the plaintiffs cannot have any claim over the same. In view of the same, the Courts below have rightly dismissed the suit.

8. Learned counsel for the appellants contended that when the temple itself is not in existence, the possession of the plaintiffs should be protected.

9. As discussed earlier, the possession of the plaintiffs / appellants is only that of an encroacher and as such, they cannot claim either declaration of title or permanent injunction. Hence, no question of law arises for consideration in this Second Appeal.

In the result, the Second Appeal is dismissed confirming the concurrent finding of the Courts below. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif
Dharapuram

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2. The Subordinate Judge
Dharapuram

3. The Record Keeper
V.R. Section
High Court
Madras

1 CC to Mr.T.Murugamanickam, Advocate SR.No. 35331

S.A. No. 626 of 2015

PUR (CO)

PSI (12.08.2015)



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