

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2015.

CORAM :

THE HONOURABLE Ms. JUSTICE K.B.K.VASUKI

C.R.P.No.424 of 2009

Velu Achari

... Petitioner/
1st Respondent/Plaintiff

Vs.

1.Kaligambal @ Kamatchiamman koil trust
rep by its President Trustee
G.Munusamy Achari
son of Gengadhara Achari.

2.Mrs.Saroja
3.Mrs.Loganayaki
4.Mrs.Dillieswari
5.Mrs.Kanniyammal

Respondents/ Respondents/
3 to 6 Defendants

Prayer: Petition filed under Section 227 of the Constitution of India against the decreetal order dated 12.09.2008 made in IA.No.83 of 2007 in OS.No.8 of 1998 on the file of the District Munsif Court, Tiruvallur.

For Petitioner : M/s.A.Palaniappan
For Respondents : For R1 to R4 notice served
R5-Died

सत्यमेव जयते

O R D E R

The plaintiff in OS.No.8 of 1998 and the first respondent in IA.No.83 of 2007 in OS.No.8 of 1996 on the file of the District Munsif, Tiruvallur is the revision petitioner herein.

2.In this revision, the petitioner has questioned the correctness of the order thereby dismissing IA filed by one Munusamy Achari to substitute himself in the place of the first respondent therein who is the petitioner herein to represent the plaintiff temple in the suit.

3.The suit is filed by one Kaligambal @ Kamatchiamman koil trust represented by its trustee Velu Achari against five individuals for recovery of possession of the suit property. One of the objections raised in the written statement filed by the contesting defendant is that Velu Achari has no locus standi to claim himself to be the Trustee and to represent the suit temple in the suit. Pending suit, IA.No.83 of 2007 came to be filed by one Munusamy Achari for substituting him in the place of Velu Achari to represent the suit temple. It is contended in the affidavit filed in support of the application that Velu Achari was elected as temporary trustee of the plaintiff temple on 01.02.1996 by the society members i.e, "Vishvakarma Samuthayam Porkollar Munnetra Sangam" and on the failure of Velu Achari to show the accounts and in view of his other activities affecting the temple properties, Munusamy Achari was elected as temple trustee unanimously and the same was intimated to Velu Achari and also to the Commissioner of Hindu Religious and Charitable Endowment Board, Chennai. As such, he is entitled to come on record as the plaintiff in the place of Velu Achari.

4.The application was seriously opposed by Velu Achari by denying his removal from trusteeship and by denying the election of other person as trustee in his place. The Trial Court after hearing both sides and after detailed discussion about the dates and events relating to the scheme formulated for the administration of the temple and the election of the trustees, dismissed the application with direction to the Thakkar, Inspector of HR&CE, Tiruvallur to come on record to represent the plaintiff temple. Aggrieved against the same, the present revision petition came to be filed by Velu Achari.

5.It is contended by the petitioner before this court that the observation of the trial Court while dismissing the application, as if Velu Achari was removed from the trusteeship and he is not competent to represent the suit temple as trustee, is unwarranted and unsustainable and is contrary to the order granted in his favour in OS.No.127 of 2001. It is the further contention of the petitioner that his continuance of trustee for pursuing the suit relief is only to safe guard the interest and property of the temple and the same will in no manner affect the administration of the temple.

6.Heard the learned counsel for the petitioner, in spite of notice there is no representation on behalf of the respondents and perused the records.

7.In my considered view, the impugned order of the trial court is very reasonable and justifiable order and no reason is made out to find fault with the same. The trial court has in his discussion portion of the order referred to various proceedings and the correctness of the particulars furnished therein is nowhere denied in

the counter filed herein. The facts narrated in the order would further reveal that the petitioner Velu Achari though was elected as temporary trustee in the place of T.S.Parthasarathy on 11.02.1996 was removed from the trusteeship by the Assistant Commissioner in his proceedings dated 02.07.2000 and a Special Officer, Thakkar was appointed to look after the temple administration on 02.07.1996 and the removal of Velu Achari from trusteeship was challenged and the appeal was dismissed by an order dated 21.09.2000 and his representation to permit him to continue as a trustee was also not favourably considered by the Commissioner of HR&CE. It also reveals that the petitioner has already approached the civil forum for forbearing the HR&CE officials for restraining him from acting as trustee. However, the learned counsel for the petitioner is unable to produce single record that the appointment of Takkar was challenged and the Takkar was restrained from discharging his duties in his capacity. The Trial Court having regard to the nature of the dispute between the parties and the various proceedings mentioned in the order, was not inclined to allow either of the individuals to represent the temple and was only inclined to direct the Takkar to come on record to represent the plaintiff temple and to pursue the suit relief.

8.That being the actual factual state of affairs, the Special Officer is competent and right person to represent the suit temple and this court does not find any infirmity or irregularity in the order impugned herein. While confirming the impugned order, it is made clear that the same is without prejudice to the claim of the individuals, if any, for trusteeship and the right of the parties to agitate the same before proper forum.

9.With the above observation, the civil revision petition is dismissed. Considering the period during which the suit came to be filed, the trial Court is directed to dispose of the suit as expeditiously as possible. No Costs.

-Sd/-

Assistant Registrar(cs-II)

//True copy//

Sub Assistant Registrar

tsh

To

The District Munsif, Tiruvallur.

CRP.No.424 of 2009

VGI (co)

cp26.08.2015