

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1941 of 2016

and

C.M.P.No.10110 of 2016

Shanmugam

S/o.Late Murugesu Naicker

... Petitioner

vs

Arulmighu Chinnamman Koil
Chengalpattu Town
represented by
Fit Person/Executive Officer,
Having office at
Sakthi Vinayagar Temple
Chengalpattu - 603 001.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned Additional Subordinate Judge, Chengalpattu, passed in I.A.No.251 of 2015 in O.S.No.232 of 2010 on 16.02.2016.

For Petitioner : Mr.P.Valliappan

ORDER

This revision arises against the order of learned Additional Subordinate Judge, Chengalpattu, passed in I.A.No.251 of 2015 in O.S.No.232 of 2010 on 16.02.2016.

2. Petitioner/first defendant has filed I.A.No.251 of 2015 in O.S.No.232 of 2010 on the file of learned Additional Subordinate Judge, Chengalpattu, seeking rejection of the plaint. The Court below, under the impugned order, dismissed such application. Hence, this revision.

3. Heard learned counsel for petitioner.

4. It is the contention of learned counsel for petitioner that the petitioner admittedly is a tenant in respect of property belonging to a temple and there is no dispute over the ownership vesting therewith. Learned counsel submits that in such circumstances, the only issue involved in the suit is reduced to one of who is entitled to management of the temple property. When so, Section 108 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, would be a bar to the suit.

5. On perusal of the order under challenge and the plaint, this Court finds that the petitioner/first defendant had filed a suit against the second defendant asserting that he was the owner of the property in question. In such circumstances, the respondent/plaintiff/fit person has moved the suit *inter alia* seeking a declaration that the property belongs to the temple. In the said circumstances, this Court finds no error in the order of the Court below.

The Civil Revision Petition shall stand dismissed. It would be open to the concerned parties to raise all questions of law and fact that arise in the circumstances of the case, before the Court below. No costs. Consequently, connected miscellaneous petition is closed.

11.07.2016

Index:yes/no
Internet:yes
gm

To

The Additional Subordinate Judge,
Chengalpattu.

C.T.SELVAM, J

gm

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