

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

O.S.A.No.259 of 2008

The Dadabadi Sri Jin Kushalsuriji Jin
Chandrasuriji Trust,
rep. by its Managing Trustee,
370, Konnur High Road,
Ayanavaram, Chennai 600 023. .. Appellant

versus

Shree Chandraprabhu Maharaj Juna Jain Madir Trust
rep. by its Secretary,
345, Mint Street,
Chennai 600 079. .. Respondent

Appeals filed under Order 36 Rule 11 of Original Side
Rules read with Clause 15 of the Letters Patent Act, against the
Judgement and Decree dated 29.04.2008 passed in A.No.3810 of
2007 in C.S.No.440 of 2007

For Appellant .. Mr.P.S.Raman
Senior Counsel for
Mr.V.Balasubramanian
For Respondent .. Mr.Mrs.Aruna Ganesh

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सत्यमेव जयते
J U D G M E N T

(Judgement of the Court was delivered by The Hon'ble Chief
Justice)

The suit has been pending since 2007. On account of the
increase of pecuniary jurisdiction of this Court, the suit was
transferred to the City Civil Court in 2010. The interim
direction was passed by the Division Bench on 21.07.2008 and
that arrangement has prevailed for the last eight years. The
very inherent nature of the interim relief is that there should
be an interim arrangement pending the suit and not that the
interim arrangement is the final adjudication of the dispute.

We thus see no reason why the interim arrangement which is prevailing at this point of time in pursuance to the orders passed should not continue to prevail till the suit is tried. The unfortunate part is that the suit is still at the initial stage. This is so as though the second defendant's witness was in the witness box, in the mean time, another person, merely on the basis of faith in the religion, sought impleadment. The learned counsel for the plaintiff endorsed no objection to the allowing of the interlocutory application, but subsequently filed a counter to the allegation levelled against the plaintiff. In the course of arguments, the learned counsel for the plaintiff, once again supported the impleadment, giving her no objection, as apparent from paragraph-7 of the order of impleadment dated 14.12.2015. The plaintiff being the dominus litus, naturally, the trial Court permitted the impleadment. The delay is thus of the plaintiff's own creation.

2. Now naturally, a fresh schedule would have to be fixed for filing written statement by the newly impleaded defendant, as also documents and thereafter, the trial would once again recommence.

3. The prayer is made for the trial may go on expeditiously. In our view, the trial will go on expeditiously so long as the parties co-operate in the trial. We never know who else will claim impleadment and the plaintiff may agree to impleadment.

4. We thus dispose of this appeal with a direction that the impugned order as modified by the order dated 21.07.2008 would continue to govern the interim arrangement till the disposal of the suit. Consequently connected miscellaneous petition is dismissed. Parties to bear their own costs.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

To
The Sub Assistant Registrar
Original Side
High Court Madras
+5 ccs to Mr.Aruna Ganesh Advocate sr 49407

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