



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (MD) No.2525 of 2016 (PD)

&

C.M.P. (MD) No.11914 of 2016

1.Pichaimmal, S/o.Raman Nadar

2.Dhasaian, S/o.Padmanabhan

.. Petitioners

Vs.

1.Arulmighu Bhadrakali Amman Temple,
Kuthiraivayyali,
Kanjampuram,
Rep. by its President.

2.Selvaraj, S/o.Thankayyan Nadar

3.Inbasagaran, S/o.Chერიyan Nadar

4.Chellan, S/o.Devendran

5.Thankayyan Nadar, S/o.Padmanabhan

6.Kaviraj, S/o.Narayana Perumal

7.Gopinathan, S/o.Kutty Nadar

8.Chinnathampi, S/o.Kutty Nadar

9.Sivadhas, S/o.Thankappan

Sivakumar (Died), S/o.Rajagopal
(Plaintiff is exempted from substituting
the LRs of D6 as per order in I.A.
No.316/2011, dated 04.07.2012)

10.Vijayan, S/o.Thomas

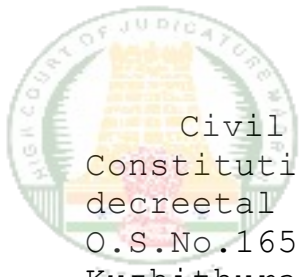
11.Pankiraj, S/o.Chiriy Pillai

12.Arjunan, S/o.Chinna Pillai

<https://hcservices.ecourts.gov.in/hcservices/>

13.Jebamony, S/o.Velayudhan Nadar

.. Respondents



Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order, dated 21.07.2016, made in I.A.No.102 of 2016 in O.S.No.165 of 2010, on the file of the Subordinate Court, Kuzhithurai and allow the Civil Revision Petition.

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For Petitioners : Mr.S.S.Thesigan

ORDER

This Civil Revision Petition has been filed against the order and decretal order, dated 21.07.2016, made in I.A.No.102 of 2016 in O.S.No.165 of 2010, on the file of the Subordinate Court, Kuzhithurai.

2. Facts of the case:

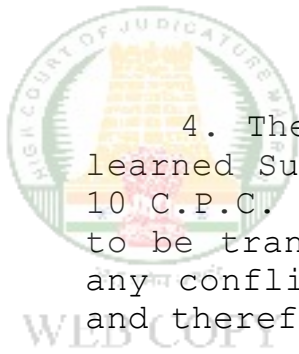
(i) The petitioners are the defendants 11 and 12 and the respondents 1 to 4 are the plaintiffs in the suit in O.S.No.165 of 2010 on the file of Subordinate Court, Kuzhithurai. The respondents 1 to 4 filed the suit for framing a scheme decree for administration of the first respondent Temple.

(ii) The petitioners filed written statement on 14.02.2013 supporting the claim of the plaintiffs. The defendants 5 to 7 also filed written statement in the month of June 2012. According to the petitioners, they also filed I.A.No.102 of 2016 to transpose them as additional plaintiffs 9 and 10 in the suit. Further, according to the petitioners, the first respondent Temple belongs to three Nadar families of Kanjampuram, viz., Vazhathottam, Kumpalapalli and Kanjirampazhanji. The petitioners are the members of Vazhathottam family. They are supporting the case of the plaintiffs and therefore, they filed the said I.A. for transposing them as additional plaintiffs 9 and 10 in the suit.

(iii) The respondents 9 to 12/defendants 5 and 7 to 9 filed counter and opposed the petition filed by the petitioners stating that the petitioners have filed the petition only to drag on the proceedings, when the suit is included in the list for trial.

(iv) The learned Subordinate Judge, Kuzhithurai, considering the materials on record and the averments made in the affidavit and the counter affidavit, dismissed the application holding that the petitioners filed written statement admitting the claim of the plaintiffs and if any scheme decree is passed, the petitioners will also be benefitted as defendants 11 and 12.

3. Against the said order of dismissal dated 21.07.2016, the petitioners have come out with the present Civil Revision Petition.



4. The learned counsel for the petitioners submitted that the learned Subordinate Judge has not properly considered Order 1 Rule 10 C.P.C. As per the said provision, the petitioners are entitled to be transposed as plaintiffs. The petitioners are not claiming any conflicting interest to that of the claim of the plaintiffs and therefore, he prayed for allowing the Civil Revision Petition.

5. Heard the learned counsel for the petitioners.

6. The respondents 1 to 4 filed O.S.No.165 of 2010, for framing a scheme decree for the administration of the first respondent Temple. The petitioners are the defendants 11 and 12 in the said suit. According to the petitioners, they are supporting the claim of the respondents 1 to 4/plaintiffs and also filed written statement to that effect. The learned counsel for the petitioners has also stated that the petitioners did not have any conflicting interest to that of the respondents 1 to 4/plaintiffs. The learned Subordinate Judge has considered the claim of the petitioners in I.A.No.102 of 2016 and in the averments made by the petitioners in the affidavit, they have not given any sufficient reason for transposing them as plaintiffs 9 and 10. The learned Subordinate Judge has also considered the stand of the petitioners in the written statement and the nature of the suit in proper perspective and dismissed the application by giving cogent and valid reason. There is no illegality or irregularity in the said order warranting interference by this Court.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To
The Subordinate Judge,
Kuzhithurai.

+1 cc to MR.S.THESIGAN, Advocate SR.No.81654

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