



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)Nos.2552 & 2553 of 2016 (PD)
and
CMP(MD) No.12030 of 2016

C.R.P(MD)No.2552 of 2016

Sri Balathandayuthapani Deity and
Kovil and Bajanaaimadam,
Rep. By its Manager M.Mahalingam
Hospital Road, Thuraiyur,
Trichy District. ... Petitioner/Petitioner/Plaintiff

Vs.

Arulmighu Ekambareswarar Kamatchiamman Deity
and temple, represented by its Trustee,
Thuraiyur,
Trichy District. ... Respondent/Respondent/
5th defendant

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to allow the Civil Revision Petition and set aside the fair and decretal order passed by the Hon'ble District Munsif Court, Thuraiyur in I.A.No.61 of 2014 in O.S.No.76 of 2003, dated 19.08.2016.

For Petitioner : Mr.V.Singan
For Respondent : Mr.H.Lakshmi Shankar

C.R.P(MD)No.2553 of 2016

Sri Balathandayuthapani Deity and
Kovil and Bajanaaimadam,
Rep. By its Manager M.Mahalingam,
Hospital Road, Thuraiyur,
Trichy District. ... Petitioner/Petitioner/Plaintiff

Vs.

1.The State of Tamil Nadu,
The District Collector,
Trichy.



2.The Tahsildar,
Thuraiyur,
Trichy District.

3.The Commissioner,
Municipality,
Thuraiyur, Trichy District.

4.The Tamil Nadu Electricity Board,
Thuraiyur,
Represented by the Assistant Accounts Officer,
Thuraiyur, Trichy District.

5.Arulmighu Ekambareswarar Kamatchiamman Deity
and Temple, represented by its Trustee,
Thuraiyur, Trichy District. ... Respondents/Respondents/
Defendants 1 to 5

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to allow the Civil Revision Petition and set aside the fair and decreetal order passed by the Hon'ble District Munsif Court, Thuraiyur in I.A.No.1218 of 2014 in O.S.No.76 of 2003, dated 19.08.2016.

For Petitioner : Mr.V.Singan
For 5th Respondents : Mr.H.Lakshmi Shankar

COMMON ORDER

The issues involved in both the Civil Revision Petitions are interlinked. Hence, common order is passed in both the revision petitions.

2.The petitioner is the plaintiff. He filed suit in O.S.No.76 of 2003 before the District Munsif Court, Thuraiyur for declaration that the plaintiff is the absolute owner of the suit property and for consequential reliefs and costs, against the respondents. The respondents filed written statement and are contesting the suit. All the parties let in oral and documentary evidence. Arguments were completed in the year 2010 by the petitioner and all other defendants except 5th defendant. The suit is of the year 2003. From the year 2010 it is posted for arguments of the 5th defendant.

3.In the meantime, the petitioner filed two applications in the year 2014 in I.A.No.61 of 2014 to permit the petitioner to file additional statement and another I.A.No.1218 of 2014 for evidence. The learned Judge considering all the materials on record and averments made in the affidavit and counter affidavit



and also the fact that the suit is being adjourned from the year 2010 for the arguments of 5th defendant, dismissed both the applications. Against the said order of dismissal, the present Civil Revision Petitions have been filed.

4. The learned counsel appearing for the petitioner submitted that the learned Judge dismissed the application without giving opportunity to the petitioner. The learned Judge failed to see that the suit property is a road poramboke, but the 5th defendant is claiming that it is a temple property and the petitioner is his tenant and further submitted that the schedule of the property in the plaint and the schedule of the property in the counter claim, both different properties and it is not one and the same. In the circumstances, the evidence of officials of HR & CE is very much essential since the 5th respondent temple being a denomination and public temple. The learned Judge failed to appreciate the provisions of Order 8 Rule 9 of Civil Procedure Code and prayed for allowing the Civil Revision Petitions.

5. The learned counsel appearing for the respondent/5th defendant submitted that the applications are belated one and the fifth defendant filed written statement on 13.04.2004 claiming counter claim and paid Court fee. The petitioner filed written statement to the counter claim and he has not filed any additional written statement immediately and filed application for permission to file additional written statement only after 10 years. Similarly, the petitioner has not taken any application before closing his side for issue of summons to the officials of the HR & CE department to be examined as witness. These applications are filed at belated stage and therefore, it is not maintainable.

6. He further submitted that the suit was posted for arguments of the 5th defendant. On 20.07.2010 the petitioner has filed applications one after other and therefore, 5th defendant did not advance his arguments. The learned Judge has properly considered all the materials on record and dismissed the applications by giving cogent and valid reason and prayed for dismissal of the Civil Revision Petitions.

7. I have heard the learned counsel appearing for the petitioner and the respondents in both the Civil Revision Petitions and also perused the materials on record.

8. From the materials, it is seen that the suit is filed in the year 2003. All the parties filed their written statement. The 5th defendant filed written statement on 13.04.2004 and 5th defendant also claimed counter claim and paid court fee. All the parties let in oral and documentary evidence. Except 5th defendant, the petitioner and all other defendants have advanced their argument. From 20.07.2010, the suit is being adjourned for the arguments of the 5th defendant. The petitioner has filed the written argument in



the year 2014. The applications are belated one since they are filed after arguments being advanced by the petitioner and other parties. In the circumstances, the learned Judge exercised his jurisdiction properly by dismissing the application by giving cogent and valid reason and there is no illegality or irregularity warranting interference by this Court.

9. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

The District Munsif ,
Thuraiyur.

+1 cc to MR.V.SINGAN, Advocate SR.No.81481

+1 cc to MR.H.LAKSHMI SANKAR, Advocate SR.No.81452

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SMA/GSV-SV/12.01.2017:4P/4C