

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.02.2017
CORAM
THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN
S.A.No.1873 of 1998
and CMP.No.1144 of 2011

Sri Badrakaliamman Koil
represented by its Trustee
Parabaram

...Appellant

Vs.

1.Rajamanickam
2.Kalyani
3.Perumal
4.Chellammal

...Respondents

S.A.No.1873 of 1998 has been filed under Section 100 of Civil Procedure Code against the judgment and decree dated 17.04.1998 passed in A.S.No.60 of 1997 by the learned Additional Sub Judge, Nagapattinam, confirming the Judgment and Decree dated 27.06.1996 passed in O.S.No.253 of 1993 by the learned District Munsif, Nagapattinam.

CMP.No.1144 of 2011

P.Vinayagam

Present Trustee of Sri Badrakaliamman Koil

Manjakollai Post,

Nagapattinam Taluk District. ...Petitioner/3rd party

vs.

1.Sri Badrakaliamman Koil
represented by its Present Trustee Parabaram
Manjakollai Post,
Nagapattinam Taluk and District .. 1st Respondent/Appellant

2.Rajamanickam

3.Kalyani

4.Perumal

5.Chellammal

.. Respondents 2 to 5 /Respondents 1 to 4

CMP.No.1144 of 2011 has been filed under Section 151 of C.P.C. to permit amendment of cause title in the name of the appellant by substituting the petitioner's name P.Vinayagam instead of Parabaram as follows: Sri Badrakaliamman Koil rep.by its Trustee Parabaram instead of Sri Badrakaliamman Koil rep.by its trustee P.Vinayagam.

For Appellant : Mr.V.Ragupathy

For R1 & R2 : No Appearance

For R3 & R4 : Ms.R.T.Shyamala

JUDGMENT

This appeal has been filed by on Parabaram as Represntative of the plaintiff temple. Aggrieved by the Judgment of the Courts below holding that he has not proved that he is the trustee of the appellant temple namely, Badrakaliamman Koil and so he is not entitled to sustain the suit as representative of the temple, he has filed this second appeal against the concurrent finding.

2. Pending the second appeal, the said Parabaram died and one Mr.P.Vinayagam, s/o.Parabaram has taken out an application to substitute himself as the trustee of the plaintiff/appellant Temple.

3. The first respondent viz., Rajamanickam, who is the first defendant in the suit has filed a counter stating that the said Parabaram died on 22.07.2005 and the said substitution application has been filed belately without any material evidence to show that H.R & C.E. Department has appointed the petitioner Vinayagam as trustee of Badrakaliamman Koil.

4. The learned counsel appearing for the respondents 3 and 4 not produced document to substantiate the plea that Vinayagam has been recognised by the H.R.& C.E.Department, as trustee of the temple. Therefore, it is clear there is no evidence to show P.Vinayagam S/o.Parabaram is competent to represent the appellant temple.

5. In view of the above, this Court finds no reason to entertain this petition seeking substitution of the petitioner name as trustee of the temple-appellant. Accordingly, this petition is dismissed. Consequently, the second appeal stands dismissed as abated.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

kkd

To

1.The Additional Sub Judge, Nagapattinam.

2.The District Munsif, Nagapattinam.

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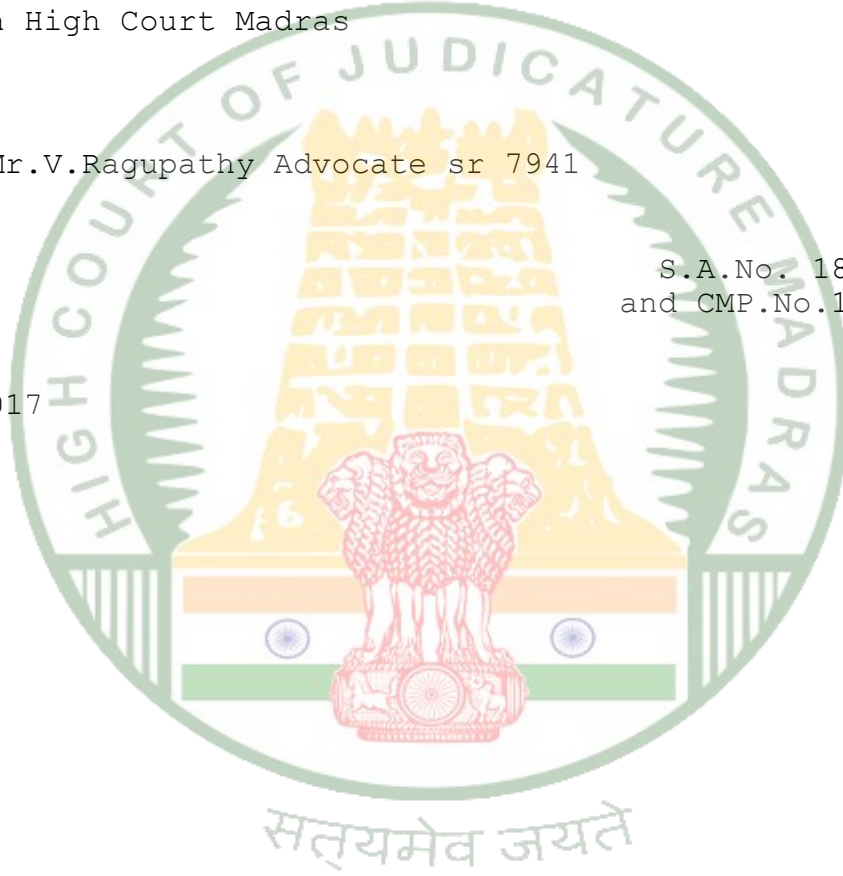
The Section Officer

VR Section High Court Madras

+1 cc to Mr.V.Ragupathy Advocate sr 7941

S.A.No. 1873 of 1998
and CMP.No.1144 of 2011

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