

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.110 of 2015

and

M.P.No.1 of 2015

1. Arulmigu Angalamman Trust
Kadathappadi represented by its
President Ramasamy
2. Ramasamy
3. Chokkalingam
4. Ranganathan
5. Ganesan
6. Murugasen
7. Mahalingam
8. Kandasamy
9. Natarajan
10. Vadivel
11. Ragunathan
12. Sakthivel

.. Petitioners

Vs.

1. Loganathan
2. Veerabathiran
3. Govindaraju
4. Soundiram
5. Arumugam Chettiar
6. Angamuthu
7. Selvam
8. Venkatachalam
9. Venugopal

.. Respondents

For themselves and in the capacity of the worshippers of
Kadathappati Arulmigu Angalamman Thirukoil as their Family Deity.

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal orders dated 17.12.2014 made in I.A.No.1042 of 2014 in O.S.No.408 of 2010 on the file of Additional District Munsif, Namakkal.

For Petitioners : Mr.S.Kalyanaraman

For Respondents : Mr.T.Dhanyakumar

ORDER

This Civil Revision Petition has been filed against the fair and the decretal order dated 17.12.2014 made in I.A.No.1042 of 2014 in O.S.No.408 of 2010 on the file of the Additional District Munsif Court, Namakkal.

2. The petitioners are the defendants and the respondents are the plaintiffs in OS No.408 of 2010. The respondents filed the suit for declaration to declare that the first petitioner-Trust is void and the petitioners 2 to 12 are not taking part in the management of the Temple. The petitioners filed written statement on 18.01.2010 and they are contesting the suit.

3. The trial commenced and the respondents let in evidence.

When the suit was posted for further examination of witness on behalf of the respondents the respondents filed an application in I.A.No.1042 of 2014 for amendment, to include the relief of declaration that the petitioners are not entitled to management of the Temple which must be with respondents and to do all the poojas.

4. The petitioners filed counter and opposed the said application and submitted that the respondents have not stated as to how they are entitled to the management of the Temple and whether they are in management of the Temple. The petitioners also denied that the management of temple is with the committee appointed for renovation.

5. The learned Judge considering the averments made in the affidavit, counter affidavit, materials available on record, allowed the application on the ground that the amendment is necessary to decide the issue in the suit.

6. Against the said order made in I.A.No.1042 of 2014, the present Civil Revision Petition is filed by the petitioners.

7. The grievance of the petitioners is that by amendment the respondents are introducing a new case and new cause of action and they have not alleged and proved, inspite of due diligence that they could not have filed the petition for amendment before the commencement of trial. The learned Judge has not given any finding on this point and not considered the fact that the application was filed after a delay of 4 years.

8. The learned counsel for the respondents submitted that the application for amendment is necessary to decide the issue in the suit and to avoid multiplicity of proceedings.

9. Heard both sides and perused the materials available on record.

10. As per Order 6 Rule 17, the Court can order the amendment of the plaint at any stage of the proceedings if such amendment is necessary for the purpose of determining the controversy between the parties in the suit. The proviso to the said Rule shows that after commencement of trial, inspite of due diligence, the application for amendment could not be filed before

the commencement of trial. The Rule 17 and proviso to the said rule must be read together. If court comes to the conclusion that amendment sought for is necessary to decide the issue between the parties, such amendment can be ordered at any stage of the suit. In the present case, the respondents have sought for declaration and injunction against the petitioners restraining the petitioners from managing the Temple. In view of such relief, thereof now sought for is only consequential relief as to whether the petitioners are in administration of the Temple or not. The learned judge has considered all the facts properly and allowed the application.

11. For the above reasons the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.06.2017

Speaking Order/Non-speaking Order
Index :Yes/No
jv/av

To

The Additional District Munsif,
Namakkal

V.M.VELUMANI, J.

jv/av

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