

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.5122 of 2011

A.Kandaswamy : Petitioner

versus

1.Arulmigu Om Sumooga Ganapathy
Kulasekara Alwar and Gangai Amman Thirukoil,
rep. By its Fit Person,
having Administrative Office at
P.T.Rajan Salai,
K.K.Nagar, Chennai 78

2. P.Anandan

3. G.Umapathy

4. Dilli Baskar

5. B.Rajendran

6. C.Mohan : Respondents

PRAYER: Revision filed against the order and decreetal order dated 19.11.2011 in I.A.No.775 of 2011 in O.S.No.209 of 2009 on the file of the District Judge, Fast Track Court, No.1, Poonamallee.

For petitioner :: Mr.G.Janarthanan

For respondents :: Mr.R.Mahalingam, for R-1

ORDER

The petitioner filed an interlocutory application in I.A.No.775 of 2011 before the Additional District Court, Poonamallee in O.S.No.209 of 2009 to reject the plaint, invoking Order 7 Rule 11 CPC. The said petition was dismissed. Challenging the said order, the present revision petition has been filed.

2. I have heard the learned counsel for the petitioner. I have also heard the learned counsel for the first respondent.

3. The first respondent filed suit in O.S.No.209 of 2009 against the petitioner and others, praying for a decree directing delivery of possession of the property with *mesne* profits. Before the Trial Court, the petitioner filed an application for rejection of plaint on the ground that the suit is barred under Section 34 of the Hindu Religious and Charitable Endowment Act. The learned Trial Judge was of the view that the provision quoted by the petitioner has nothing to do with the filing of the suit. The learned Judge therefore dismissed the application.

4. The first respondent has raised certain jurisdictional issues in O.S.No.209 of 2009. Section 34 of the Hindu Religious and Charitable Endowment Act would not stand in the way of maintaining the suit by a

temple for eviction. In any case, the question raised by the petitioner requires evidence and the same cannot be decided in a petition under Order 7 Rule 11 CPC. I am therefore of the view that the learned District Judge was correct in dismissing the application.

5. In the result, the civil revision petition is dismissed. No costs. Consequently, M.P.No.1/2011 is also dismissed.

15.06.2017

Index:Yes/no
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To

The District Judge, Fast Track Court, No.1, Poonamallee.

K.K.SASIDHARAN, J.

(tar)

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