

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.4089 of 2010 and 3033 of 2011
& M.P.Nos.1 of 2010 and 1 of 2011

CRP(PD)No.4089 of 2010:

- 1.Kumar
- 2.Shanmugam
- 3.K.P.Arumugam
- 4.Sellakutti
- 5.Madurai
- 6.Selvaraj
- 7.John Basko
- 8.Siva
- 9.Venkatesan
- 10.Selvam
- 11.Manigandan
- 12.Parasuraman

.. Petitioners

The President,
Shree Mariamman Koil,
Kunnagampoondi,
Vandavasi Taluk,
Tiruvannamalai District.

Vs.

.. Respondent

CRP(PD)No.3033 of 2011:

- 1.K.Munusamy
- 2.V.Kuppusamy
- 3.K.Arumugam
- 4.J.Mariyadas
- 5.A.Velmurugan

6.Lurthumary
7.Kamala
8.Jalammal
9.Rani
10.Rajakumari

.. Petitioners

Vs.

1.The President,
Shree Mariamman Koil,
Kunnagampoondi,
Vandavasi Taluk,
Tiruvannamalai District.

2.Kumar
3.Shanmugam
4.K.P.Arumugam
5.Sellakutti
6.Madurai
7.Selvaraj
8.John Basko
9.Siva
10.Venkatesan
11.Selvam
12.Manigandan
13.Parasuraman

(respondents 2 to 13 are not
necessary parties in this revision)

.. Respondents

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the petition and order dated 18.09.2010 passed in I.A.No.688 of 2008 in O.S.No.266 of 2008 on the file of the Principal District Munsif Court, Vandavasi.

For Petitioners
(both cases)

: Mr.P.Mani

For Respondents
(both cases)

:R1-No appearance

:R2 and R3-given up

COMMON ORDER

These Civil Revision Petitions have been filed against the petition and order dated 18.09.2010 passed in I.A.No.688 of 2008 in O.S.No.266 of 2008 on the file of the Principal District Munsif Court, Vandavasi.

2. The petitioners in C.R.P.(PD)No.4089 of 2010 and respondents 2 to 13 in C.R.P.(PD)No.3033 of 2011 are the defendants and first respondent in both revision petitions is the plaintiff in O.S.No.266 of 2008. The petitioners in C.R.P.(PD)No.3033 of 2010 are the third parties in the suit. The first respondent filed suit in a representative capacity on behalf of all the villagers and filed an application in I.A.No.688 of 2008 for permission to file the suit. The first respondent-Temple is seeking relief in the suit for permanent injunction restraining the petitioners and other objectors from interfering with renovation work of the temple.

3. According to the first respondent-Temple, the Temple is constructed in the year 1991 in the land belonging to the Government and all the colony people are worshipping in the temple. The temple is managed by a Committee formed from and out of colony people. For the purpose of renovation and for Kumbabishegam, the committee was formed. One Kannan is the President and Govindasamy is Poojari.

4. The petitioners in C.R.P.(PD) No. 4089 of 2010 are interfered with renovation work done by the committee. Hence, the first respondent filed an application under Order 1, Rule 8 of CPC for permission to the President of Committee to file suit in a representative capacity. The petitioners in C.R.P.(PD)No.4089 of 2010 filed counter affidavit and opposed the said application on the ground that the said Kannan is not the President of the Committee and he is nothing to do with the committee. The first respondent-Temple has filed forged documents for the purpose of filing the said suit. The first respondent and his men are trying to encroach the Temple and are committing illegal activities by collecting donation and criminal cases are pending against henchmen of the first respondent.

5.The learned Judge, considering the averments made in the affidavit and counter affidavit and materials on record, allowed the application on the ground that the petitioners in C.R.P.(PD) No.4089 of 2010 are the defendants in the suit and no other persons have opposed and objected the said application and the objection of the petitioners in C.R.P.(PD) No.4089 of 2010 can be decided only in the suit.

6. Against the order dated 18.09.2010 made in I.A.No.688 of 2008, the present two civil revision petitions are filed by the petitioners.

7. The learned counsel appearing for the petitioners in both revision petitions contended that the first respondent is not the President of the Committee and he has no right to represent on behalf of the villagers. The first respondent has filed the suit against the interest of the villagers and to prevent them from entering and participating in the temple activities. The petitioners in C.R.P.(PD)No.3033 of 2011 entered appearance on 29.01.2010 through Advocate and filed their counter on 29.06.2010 objecting to grant permission to represent the suit. The learned Judge without considering the counter filed by the objector, committed irregularity in allowing the application on the ground that no villagers have objected the application.

8. The grievance of the petitioners is that the first respondent is not the President of the Committee and his intention is only to encroach the Temple property and preventing the petitioner and other villagers from entering into Temple. The first respondent is illegally collecting donation bringing bad name to the villagers and temple. He is acting against the interest of the villagers.

9.As far as the petitioners in C.R.P(PD) No.3033 of 2010, the learned counsel for the petitioners contended that the petitioners entered appearance

on 29.01.2010 and filed counter on 29.06.2010. The learned Judge committed irregularity in allowing the application on the ground that no villagers are objecting.

10. Heard the learned counsel appearing for the petitioners and perused the materials available on record. Though the name of the first respondent has been printed in the cause list, he has not chosen to appear before this Court either in person or through counsel.

11. The grievance of the petitioners in C.R.P.(PD) No.3033 of 2010 is that they have filed counter affidavit on 29.06.2010, but the learned Judge has held that no villagers have objected to the said application. In the typed set of papers, the petitioners have filed counter. The said counter does not contain any date and there is nothing on record to show that the same was filed into the Court. On the other hand, there is an I.A.No.311 of 2010, wherein the petitioners have prayed for taking I.A.No.688 of 2008 for re-hearing of the said application.

12. From these materials on record, it can be said that the learned Judge has not committed any irregularity in stating that no villagers have

objected the application in I.A.No.688 of 2008. The first respondent has filed the suit and application in I.A.No.688 of 2008 for permission to file the suit in the representative capacity for renovation of the temple for the purpose of Kumbabishegam to be conducted in the year 2010 and restraining the petitioners in C.R.P.(PD)No.4089 of 2010 from interfering with the activities of the committee.

13. Considering the fact that the permission was granted in the year 2010 and the learned Judge has given valid reason for allowing the application, these civil revision petitions are liable to be dismissed as de-void of merits.

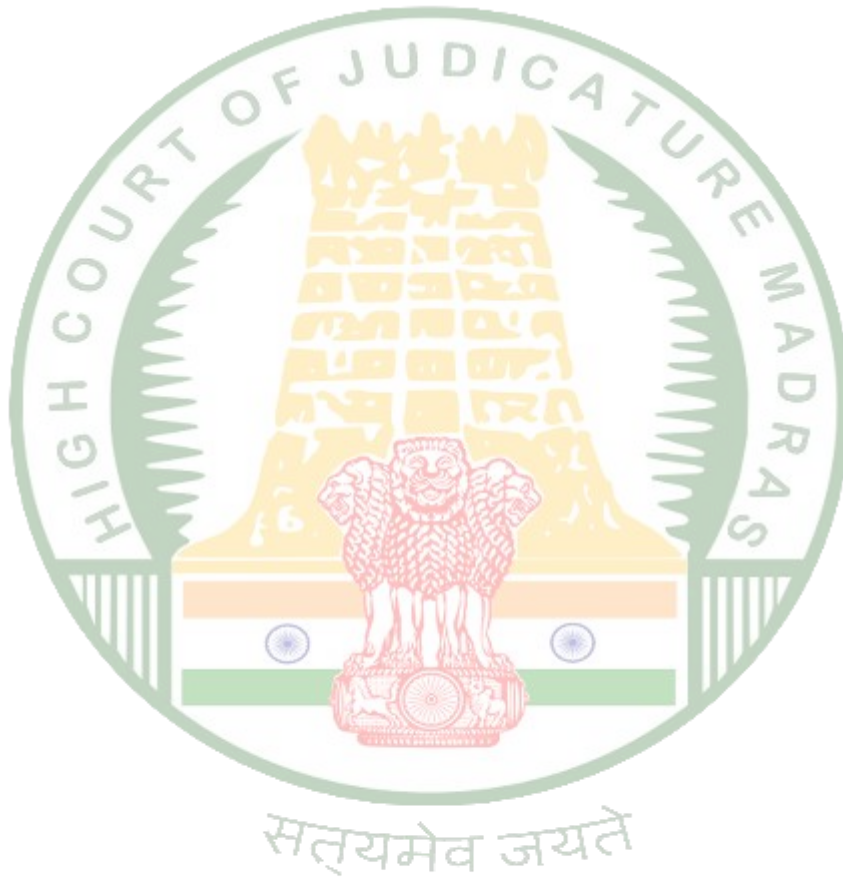
14. Accordingly, these Civil Revision Petitions are dismissed. The learned Trial Judge is directed to dispose of the suit in O.S.No.266 of 2008 on the file of the Principal District Munsif Court, Vandavasi as early as possible, if it is not already disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.07.2017

Index : Yes/No
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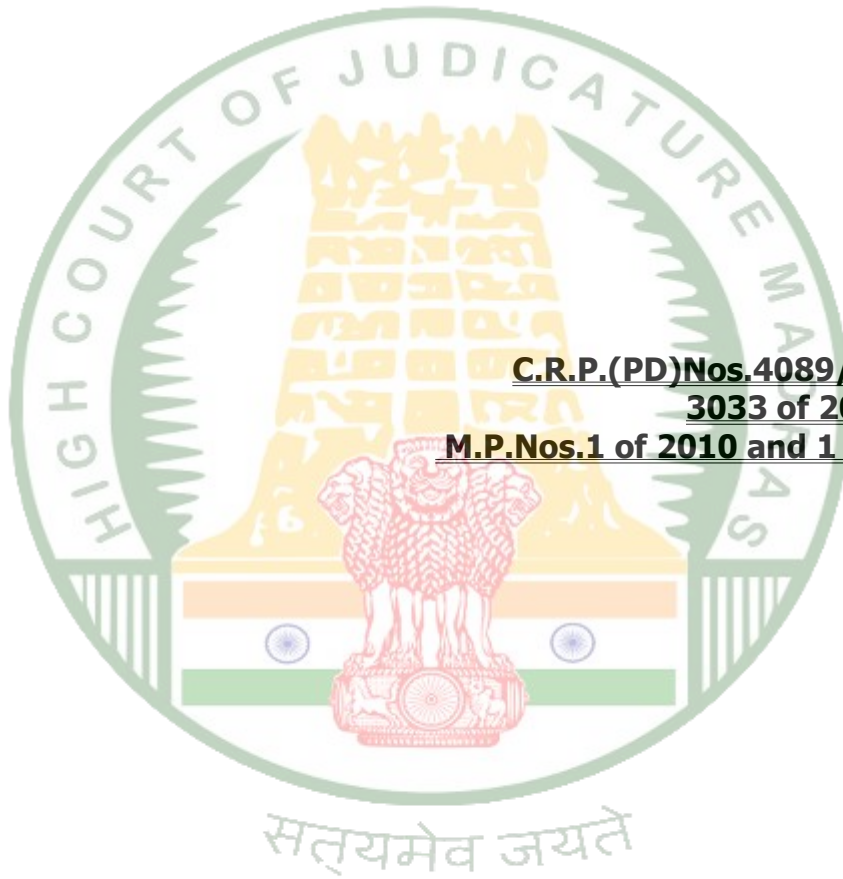
The Principal District Munsif Court,
Vandavasi.



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V.M.VELUMANI, J.

dm/ari



**C.R.P.(PD)Nos.4089/2010 &
3033 of 2011 and
M.P.Nos.1 of 2010 and 1 of 2011**

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