



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.11.2017

Delivered on : 19.12.2017

WEB COPY

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (PD) (MD) .No.1686 of 2017

and

C.M.P (MD) .No.9280 of 2017

Chokkanathanputhur Sri Kaliyanandi Ayyanar
Thirukovil Kulathinvamai Valipadum
Aanaithu Samugathinar Trust,
Now represented by its Secretary,
G.Sakarasubramanian.

... Petitioner

vs.

1. K.Mariappan
2. K.Gopal Konar
3. Gurusamy
4. R.Karuppaiah Kothanar
5. V.Pommusamy
6. C.Rakkumuthu @ Vellappandi
7. C.Alagar
8. R.Lakshmanan
9. K.Sachithanantham
10. The Deputy Commissioner,
HR & CE Department,
Virudhunagar.
11. The Executive Officer,
Arulmigu Mayuranathaswamy Thirukovil,
Pethavanallur, Rajapalayam Taluk,
Virudhunagar District.
12. The Inspector,
HR & CE Department,
Srivilliputhur,
Virudhunagar District.
13. The Commissioner,
HR & CE Department,
Chennai.



14. The Joint Commissioner,
HR & CE Department,
Sivagangai,
Sivagangai District.

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order made in I.A.No.412 of 2017 in O.S.No.232 of 2013 on the file of the District Munsif Court, Srivilliputhur, dated 11.08.2017.

For Petitioner : Mr.P.Thiyagarajan
For R1 to 3 and 5 to 8 : Mr.M.Thirunavukarasu
For R11 : Mr.P.Mahendran

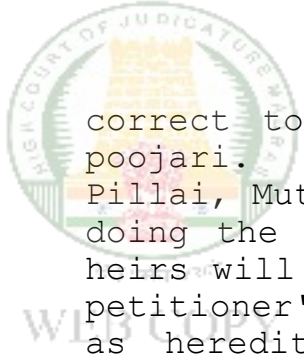
O R D E R

The Civil Revision Petition has been filed against the fair and decreetal order dated 11.08.2017 in I.A.No.412 of 2017 in O.S.No.232 of 2013 on the file of the District Munsif Court, Srivilliputhur.

2.The petitioner is the plaintiff in O.S.No.232 of 2013 on the file of the District Munsif Court, Srivilliputhur and the respondents are the defendants. The petitioner/plaintiff filed the above said suit for declaration with respect to administration of temple and permanent injunction. During the pendency of the suit, the petitioner/plaintiff filed an application in I.A.No.412 of 2017 to implead the respondents 9 to 14 as the party respondents. But the trial Court has dismissed the application on the ground that the respondents 9 to 14 are not necessary parties to decide the issue involved in the suit. Against which, the petitioner/plaintiff filed the Civil Revision Petition before this Court.

3.The learned counsel for the petitioner would submit that the suit temple was taken over by the HR & CE Department and as such, the authorities under the HR & CE Department are necessary parties to decide the issue involved in the suit. He would further submit that during the pendency of the suit, an Executive Officer also appointed to the temple vide Reference in Sa.Mu.Na.Ka.No.2011/2006/A3, dated 15.09.2014 and hence, the presence of Executive Officer is very much necessary and the 9th defendant is none else the hereditary Poojari of the temple and as such, he is also a proper party to the suit relating to administration of the temple.

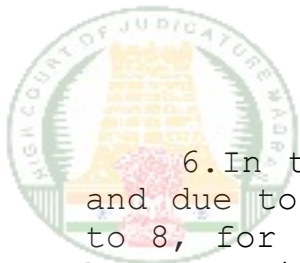
4.Learned counsel for the respondents 1 to 3 and 5 to 8 would submit that the respondents 1 to 8 through their counter has stated that the petitioners have filed application to implead respondents 9 to 14 only to drag on the proceedings and there is no relief claimed against respondents 9 to 14 and therefore, they are necessary parties to the suit. The 1st respondent has stated that it is not



correct to state that the 9th respondent alone is the hereditary poojari. In fact, Gurusamy Pillai, Ganapathiya Pillai, Ramiah Pillai, Muthukumar Pillai are also poojaris in the above temple and doing the poojas and after the death of those persons their legal heirs will be poojaris and will be doing poojas and therefore, the petitioner's prayer to implead stating that the 9th respondent alone as hereditary poojari is not correct. In the affidavit, the petitioner has also stated that for the past 1½ years before filing the suit, he has approached the authorities and asked for handing over the temple in his custody and it is stated that he was advised to act as per the directions of the 11th respondent who is the fit person. The respondents who are the authorities of HR&CE department will act as per the decisions of the Court. He has also submitted that even if the temple is under the control of the respondents 10 to 14, all poojas will be done by the Trust and therefore, if at all respondents 9 to 14 have anything to say, they can always be examined as witnesses. Hence, it was contended that only to prolong the proceedings such an application has been filed and prayed for dismissal of the revision petition.

5. In support of his contention, learned counsel relying upon the judgment in **Abdul Hameed vs. Eganathan** reported in **AIR 1981 Madras 137**, wherein, it was held that the parties who have no subsisting interest in the suit property on the date of suit and did not also claim any such interest are not necessary parties to the suit, submitted that in the present case, due to the dispute in the administration of the temple, 11th respondent has been appointed as fit person and till the dispute with regard to the administration of the temple is decided, the respondents 9 to 14 do not have any role to play and therefore, they are not necessary parties in the present application and in support of the same, he would rely on the judgment of the Hon'ble Supreme Court in **Mumbai International Airport Pvt. Ltd., vs. Regency Convention Centre & Hotels Pvt. Ltd., and others** reported in **AIR 2010 SC 3109**, wherein, at paragraph 8, the Apex Court held as follows:-

'8. ... A 'necessary party' is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the Court. If a 'necessary party' is not impleaded, the suit itself is liable to be dismissed. A 'proper party' is a party who, though not a necessary party, is a person whose presence would enable the Court to completely, effectively and adequately adjudicate upon all matters in disputes in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the Court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right / interest in a suit property, after the suit is dismissed against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.'



6. In the present case, the suit has been filed for declaration and due to the dispute between the petitioner and the respondents 1 to 8, for the proper administration of the temple, a fit person has been appointed till the dispute is resolved and once the dispute is settled, the administration of the temple will be given to the person as decided by the Court and if at all the petitioner in any way requires any other statement from the respondents 9 to 14, they can always be cited as witnesses. In this case, only for the administration of the temple, the Executive Officer has been appointed as fit person and other than that, respondents 9 to 14 have got no right over the temple. Appointment of the fit person is only for the interregnum period till the dispute is settled and therefore, respondents 9 to 14 are not necessary parties and the contention that 9th respondent alone is hereditary poojari cannot be accepted since there are other poojaris also.

7. Perusal of the records shows that there is no relief claimed against respondents 9 to 14 and it is also not stated that there is any disturbance from the proposed respondents 9 to 14 and it is also seen that respondents 10 to 14 have stated that once the dispute is resolved through the court they will act by the verdict of the Court.

8. In the judgment in 2009 (2) TLNJ 529 what has to be seen before deciding a petition for impleading and the tests applied to determine the right of a party to implead another in the pending suit are crystallised in the following categories:-

(a) If without his presence no effective and complete adjudication could be made.

(b) If his presence is necessary for a complete and effective adjudication of the dispute though no relief is claimed against him.

(c) If there is a cause of action against him.

(d) If the relief sought in the suit or other proceedings is likely to be made binding on him

(e) If his role is really that of a necessary witness but is sought to be camouflaged as a necessary party.

9. As stated earlier, respondents 10 to 14 are the authorities in HE&CE Department and 11th respondent is the fit person appointed by the authorities only because of the dispute between the petitioner and respondents 1 to 8 and as soon as the dispute is resolved, the temple administration will be handed over as per the verdict of the court. When that is the situation, there is no necessity for the authorities to be impleaded as respondents especially when they do not have any right over the temple. It is also not alleged that the petitioner was disturbed by the activities of the proposed respondents and if at all there is any grievance, the respondents could always be enquired as witnesses and therefore, in my considered opinion, none of the ingredients stated in the judgment reported in 2009 (2) TLNJ 529 will support the case of the petitioner and therefore, the learned Judge has rightly dismissed



the application for impleadment and there is no infirmity in the impugned order passed by the learned Judge.

Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Srivilliputhur.

+ 1 CC TO Mr.P.MAHENDRAN, ADVOCATE IN SR No. 93705

BALA/AKV

TE/SKN-RSK/SAR-1 : 23/01/2018 : 5P/3C

C.R.P(MD)No.1686 of 2017 and
C.M.P(MD) .No.9280 of 2017
19.12.2017