



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2017

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CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

S.A. (MD) No.598 of 2016

Arulmigu Mariamman @
Santhana Mariamman Thirukoil Konar
Community through its Nattanmai,
Kannan .. Appellant/Appellant/2nd Defendant

Vs.

1.Arulmigu Mariamman @
Santhana Mariamman Thirukoil
24 Manai Telungu - Chetiar Community,
through its Natanmai
J.Rajagopal.

2.Arulmigu Mariamman @
Santhana Mariamman Thirukoil Naidu
Community, through its Nattanmai
Alagarsamy Naidu. .. Respondents 1 & 2/Respondents/
Plaintiffs

3.Arulmigu Mariamman @
Santhana Mariamman Thirukoil
Pandara Community,
through its Nattanmai
P.Vinayagamoorthy. .. 3rd Respondent/1st Appellant/
1st Defendant

(3rd respondent name is substituted
vide Court order dated 24.11.2016
in C.M.P.No.11260 of 2016) in SA(MD)
598/16

Prayer: Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree dated 26.04.2016 made in A.S.No.15 of 2011, on the file of the Subordinate Court, Srivilliputhur confirming the judgment and decree dated 06.12.2010 made in O.S.No.204 of 2008 on the file of the Principal District Munsif Court, Srivilliputhur.



For Appellant : Mr.I.Velpradeep
For Respondents : Mr.V.Sitharanjandas
for R.1 and R.2
: Mr.M.Sureshkumar
for R.3

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JUDGMENT

Challenging the judgment and decree passed in A.S.No.15 of 2011, on the file of the Subordinate Court, Srivilliputhur, confirming the judgment and decree passed in O.S.No.204 of 2008, on the file of the Subordinate Court, Srivilliputhur, the second defendant has filed the above Second Appeal.

2. The plaintiffs filed the suit in O.S.No.204 of 2008 for declaration and for permanent injunction. The brief case of the plaintiffs is as follows:

According to the plaintiffs, the suit property is a temple belonging to the plaintiffs' community. The second item is the Nandavanam belonging to the temple. Five community people are in-charge of the temple and each community is having a key with them. The first defendant's community is doing poosary work. The revenue records stand in the name of the temple. All the community people are worshipping in the temple. In the year 1995, there was a dispute and on 05.06.1995, there was a peace committee meeting held by the Sub-Inspector of Police, Watrap, in which both parties are agreed to some understanding. In the year 2005, there was another dispute between the parties and another peace committee meeting was held on 01.03.2006 by the Tahsildar, Srivilliputhur, in which also, an agreement was reached by all the parties. Since the defendants are acting against the agreement reached in the peace committee meeting, the plaintiffs have filed the suit.

3. The brief case of the defendants is as follows:

According to the defendants, the suit properties are belonging to them and they alone are managing the property and the plaintiffs are worshipping in the temple, but they are not having any key for the temple. The electricity service connection was originally in the name of one Venkatachalam Konar and subsequently, transferred in the name of the temple. The defendants alone are paying the electricity charges. The peace committee meetings are not binding on the defendants. The defendants have not denied the right of the plaintiffs in worshipping the temple. In these circumstances, the defendants prayed for dismissal of the suit.

<https://hcservices.courts.gov.in/hcservices>
4. On the trial Court, on the side of the plaintiffs, P.W.1 was examined and 18 documents viz., Exs.A.1 to A.18 were

Srivillip

appearing for the third respondent.

questions of law in the Second Appeal:

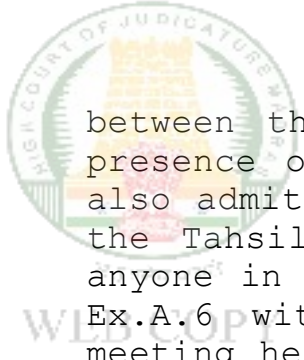
Santhana Mariamman?

enforceable one by the civil Court?

maintainable in law?

framing scheme decree?"

<https://hdservices.ecourts.gov.in/hcservices>



between the parties in the peace committee meeting held in the presence of the Tahsildar was signed by all the parties. D.W.1 also admitted the peace committee meeting held in the presence of the Tahsildar and also submitted that there was no coercion by anyone in the said meeting. He also admitted that he had signed Ex.A.6 with full consent. Since the earlier peace committee meeting held in the year 1995 was held in the presence of the Sub Inspector of Police, the Courts below have rightly rejected the first prayer sought for in the suit. The Courts below have rightly accepted the peace committee meeting held in the presence of the Tahsildar and also granted a declaratory decree in respect of the said resolution.

8. Further the Courts below have rightly held that the plaintiffs are entitled to conduct the festival in the tamil month of Aani every year and the defendants are entitled to conduct the festival in the tamil month of Vaikasi every year. The Courts below have also granted a decree restraining the defendants from interfering with the temple festival conducted by the plaintiffs in the tamil month of Aani, similarly restrained the plaintiffs from interfering with the temple festival conducted by the defendants in the tamil month of Vaikasi. In these circumstances, I do not find any error or irregularity in the judgment and decree of the Courts below.

9. The learned Counsel appearing on either side submitted that so far as the keys of the temple is concerned, two sets of keys may be made and one shall be kept by the plaintiffs and the other set shall be kept by the defendants.

10. Since both the learned Counsel suggested this suggestion, this can be implemented by the plaintiffs and the defendants.

11. In these circumstances, I do not find any ground much less any substantial question of law to interfere with the concurrent findings of the Courts below. The Second Appeal is liable to be dismissed. Accordingly, the same is dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To

1. The Subordinate Judge,
Srivilliputhur.

2. The Principal District Munsif ,
Srivilliputhur.

+1cc to Mr.T.Antony Arul Raj, Advocate Sr.No. 9805

+1cc to Mr.V.Sitharanjandas, Advocate Sr.No. 9409

JAM/07.03.17 /PM-PN/SAR 2/ 5p-5c

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