

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY THE 16TH DAY OF JULY 2018

THE HON'BLE MR. JUSTICE SATHISH KUMAR

A. No.2486 of 2017

in

C.S.No.381 of 2016

1. A.Nithyanandan
S/o. G.D.Andadurai
Flat No.310, 4th Block,
Alliance orchid Springs
No.54, Water Canal Road,
Korattur, Chennai 600 076.

2. D.Eswaramurthy
former Managing Trustee of
Chennai Sri Kalikambal Kamateswarar
Devasthanam
S/o. T.K.Dharani
No.8/26, First Main Roa,
United India Nagar, Ayanavaram,
Chennai 600 023.

3. Dr.S.Padma, Advocate
D/o. Mr.Soundararajan
Flat No.F1, Thanikachalam Apartments,
No.63, Rakkiappa Street,
Mylapore, Chennai 600 004. : Applicants/Plaintiffs

Vs.

1. Kinni Ther Festival Specific Endowment
No.3, Genguraman Street,
Park Town, Chennai 600 003.

(*) 2. M/s. Masseys Enterprises Private Limited,
A Company Represented by its Chairman &
Managing Director, Mr.Rahul Nath,
having office at No.17 (Old No.7)
North Railway Termenus Road,
Royapuram, Chennai 600 013.

3. M/s. Casa Grande Pvt., Ltd.,
having office at NPL DEVI, 5th Floor,
New No.111, Old No.59, L.B.Road,
Thiruvannamiyur, Chennai 600 041.

4. Chennai Sri Kalikambal Kamateswarar
Devasthanam represented by its
Managing Trustee, having office at
No.212, Thambu Chetty Street,
Chennai 600 001.

5. The Member Secretary
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai
Egmore, Chennai 600 008.

6. The Commissioner
Corporation of Chennai
Ripon Building, Chennai 600003. :Defendants

(*) Amended as per order dated 24.4.2017 in
A.No. 2485 of 2017 and order dated 14.6.2017
24.07.17, 30.08.17, 7.11.17, 21.11.17, 13.6.17
and 26.6.2018)

A.No.2486 of 2017:

M/s. Massey's Enterprises Private Limited,
A Company Represented by its Chairman &
Managing Director, Mr.Rahul Nath,
having office at No.17 (Old No.7)
North Railway Terminus Road,
Royapuram, Chennai 600 013. :Applicant/2nd Defendant

-Vs.-

1. A.Nithyanandan
S/o. G.D.Andadurai
Flat No.310, 4th Block,
Alliance orchid Springs
No.54, Water Canal Road,
Korattur, Chennai 600 076.

2. D.Eswaramurthy
former Managing Trustee of
Chennai Sri Kalikambal Kamateswarar

Devasthanam
S/o. T.K.Dharani
No.8/26, First Main Road,
United India Nagar, Ayanavaram,
Chennai 600 023.

3. Dr.S.Padma, Advocate
D/o. Mr.Soundararajan
Flat No.F1, Thanikachalam Apartments,
No.63, Rakkiappa Street,
Mylapore, Chennai 600 004.

: 1st to 3rd Respondents/Plaintiffs

4. Kinni Ther Festival Specific Endowment
No.3, Genguraman Street,
Park Town, Chennai 600 003. :4th Respondent/1st Defendant

5. M/s. Casa Grande Pvt., Ltd.,
having office at NPL DEVI, 5th Floor,
New No.111, Old No.59, L.B.Road,
Thiruvanniyur, Chennai 600 041.

:5th Respondent/3rd Defendant

6. Chennai Sri Kalikambal Kamateswarar
Devasthanam represented by its
Managing Trustee, having office at
No.212, Thambu Chetty Street,
Chennai 600 001. :6th Respondent/4th Defendant

7. The Member Secretary
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai
Egmore, Chennai 600 008.

:7th Respondent/5th Defendant

86. The Commissioner
Corporation of Chennai
Ripon Building,
Chennai 600003.

:8th Respondent/6th Defendant

Application praying that this Hon'ble Court be pleased
to reject the plaint in C.S.No.381 of 2016.

This application coming on this day before this court for hearing the court made the following order:-

This application has been filed to reject the plaint mainly on two grounds, that is the suit is barred by limitation and the plaintiffs are not representing the temple.

2.The suit itself is filed for declaration, to declare that the order of the City Civil Court, in O.S.No.6612 of 1976 dated 03.10.1983 is non- est and for other reliefs.

3.The learned counsel appearing for the respondent / plaintiff would submit that the defendants herein have obtained the orders from the City Civil Court by playing fraud and that they are not covered under Section 9 of the Chennai City Tenants' Protection Act, 1921.

4.It is also averred that originally the first defendant was given permission to collect the amount for damages for his occupation from the second defendant. There was conspiracy between the first and second defendant. The first defendant declared himself as the owner of the temple property and created documents and obtained orders thereafter.

5.Perused the entire affidavit as well the counter affidavit filed by the respondents. The suit can only be rejected on the grounds set out under Order 7 Rule 11 of C.P.C. The only allegations in the plaint should be taken into consideration find out as to whether there is a cause

of action or not. Materials and documents on the side of the defendants cannot be taken into consideration to decide whether the suit is to be rejected or not, only the allegations in the plaint shall be considered.

6.The suit itself is filed with allegation that decree was obtained by playing fraud. Further limitation aspect is mixed question of law and facts and the same cannot be gone into at this stage. Whether the person who has filed the suit is a proper person or not to represent the temple is a matter for evidence and that also cannot be gone into at this stage.

7.Hence, I do not find any merit in the application to reject the plaint. Accordingly, this application is dismissed.

Sd./-N.S.K.J
16.07.2018

//Certified to be true copy//

Dated at Madras this the day of 2018
JJ 30/08/2018

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

सत्यमेव जयते
WEB COPY