

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4631 of 2014
and M.P.No.1 of 2014

1.Lakshmi
2.Maheswari
3.Anusuya

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Petitioners

Vs.

1.Thulukanathamman Temple
Alandur Rep.by its Trustee
Venkatesan (died)
S/o Raghupathy Pillai
11, 3rd Morrison Street, Alandur
Chennai – 600 016, Saidapet Taluk

2.Balachandar

3.Sampathkumar

...

Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decree passed in I.A.No.1/2012 in O.S.No.368 of 2004 dated 20th day of June, 2012 passed by the learned Additional District Munsif at Alandur.

For Petitioners : Mr.R.Gopalrathnam

For Respondents : Mr.T.Thiagarajan
for RR2 and RR3

Not ready in notice
Reg. RR1

ORDER

This Civil Revision Petition has been filed against the order and decree passed in I.A.No.1/2012 in O.s.No.368 of 2004 dated 20th day of June, 2012 passed by the learned Additional District Munsif at Alandur.

2. The petitioners are defendants and respondents are plaintiffs in O.S.No.10 of 1997 on the file of Sub Court, Poonamallee which was subsequently transferred to Additional District Munsif Court, Alandur and re-numbered as O.S.No.368 of 2004. The respondents filed the above suit against the petitioners for declaration of title to the 'B' Schedule property, for recovery of possession and for a direction to the petitioners to pay a sum of Rs.29,850/- being the past mense profits at the rate of Rs.30/- per day.

3. The petitioners filed written statement on 09.01.1998 and are contesting the suit. The third respondent filed I.A.No.1 of 2012 under Order VI Rule 17 & 18 r/w Section 151 CPC to amend the name of the first plaintiff as D.Sampath Kumar instead of Venkatesan in the short cause title and to delete the name of the second plaintiff Mr.Balachandar in the short and long cause title. According to the third respondent Sampath Kumar, one of the trustee Venkatesan died on 03.08.2010 and the third respondent is managing the first respondent Temple and he may be permitted to prosecute the case.

3(a) The first petitioner filed counter affidavit and the same was adopted by third petitioner. The petitioners 1 and 3 made various averments against the third respondent. They contended that the third respondent was represented only in his individual capacity and without there being any document, the third respondent cannot represent the first respondent temple. The learned Judge, considering all the materials on record, affidavit and counter affidavit, allowed the application.

4. Against the said order dated 20.06.2012 made in I.A.No.1/2012 in O.S.No.368 of 2004, the present Civil Revision Petition is filed by the petitioners.

5. The learned counsel for the petitioners reiterated the averments made in the counter and contended that the third respondent Sampath Kumar is not a trustee and the learned Judge, without properly appreciating the averments in the counter filed by the petitioners 1 and 3, allowed the application.

6. Per contra, the learned counsel for the respondents 2 & 3 submitted that the third respondent Sampath Kumar is one of the Trustee of the first respondent temple and he has been shown as a trustee in the cause title. The second respondent Balanchandar is not interested in representing the first respondent temple. The learned Judge has given valid reason and allowed the application.

7. Heard the learned counsel for the petitioners as well as respondents 2 and 3 and perused the materials available on record.

8. The only objection of the petitioners is that the third respondent Sampath Kumar is not a trustee and he was impleaded only in his individual capacity. The said contention is not correct. A reading of the short cause title clearly shows that the first respondent represented by its three trustees i.e. Venkatesan, Balachandar and Sampathkumar and the suit is filed by them as trustees of the temple. It is admitted that when Venkatesan, one of the trustee is dead, the temple has to be represented by one of the trustees. At the time of filing of the suit itself, the third respondent Sampathkumar is shown as trustee. Therefore, there is no irregularity or illegality in the order impugned in this revision warranting interference by this Court.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10. The learned counsel for the respondents 2 & 3 submitted that on the Transfer OP No.23 of 2009 filed by the respondents 2 & 3, the Principal District Judge, Chengalpet, by order dated 19.03.2012 has transferred the present O.S.No.368 of 2004 to be tried alongwith O.S.No.2663 of 1997 and O.S.No.981 of 1997 pending on the file of Principal District Munsif Court, Alandur.

Hence, the Principal District Munsif, Alandur is directed to dispose of all the three suits, as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

05.01.2018

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To

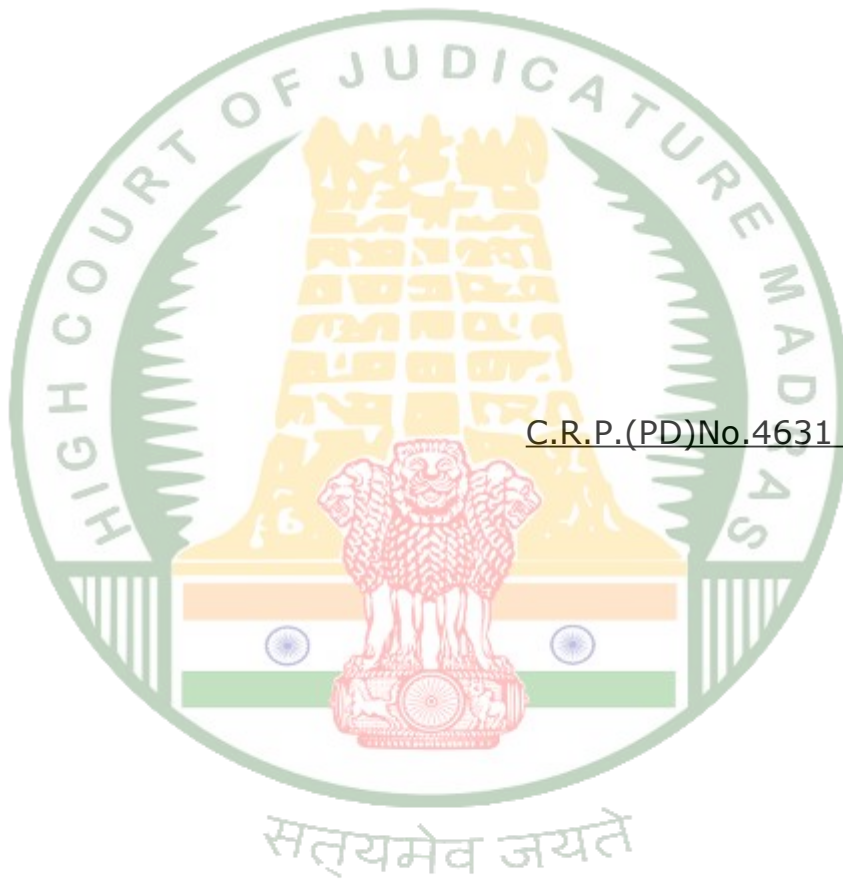
1. The Principal District Munsif,
Alandur.
2. The Additional District Munsif,
Alandur.



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V.M.VELUMANI, J.

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