

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.920 of 2018
and CMP.No.4971 of 2018

Thondai Mandala Adi Saiva Vellala Community
Sri Prasanna Vinayagar Temple
Rep by its present Trustees
1.S.Dharmalinga Mudaliar
2.M.Karunakaran Mudaliar
3.R.Chandran Mudaliar
4.N.Vijayasarithi Mudaliar
5.V.Manikandan Mudaliar

.. Petitioners

Vs

1.D.Vijayan

2.The Commissioner,
Hindu Religious and Charitable,
Endowments Department,
Nungambakkam, Chennai 600 034.

.. Respondents

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decree dated 13.12.2017 made in I.A.No.16601 of 2015 in O.S.No.6393 of 2015 on the file of the V Assistant City Civil Judge, Chennai.

For Respondents : Mr.P.Raja for R1

ORDER

By consent of both parties, the Civil Revision Petition is taken up for final disposal at the admissions stage itself.

2. According to the revision petitioners, the revision petitioners have filed a suit in OS.No.6393 of 2015 on the file of the V Assistant City Civil Court, Chennai to declare that Sri Prasanna Vinayagar Temple situated at Paraniputhur, Mangadu Post, Chennai is a denominational temple maintained and administered by Thondai Mandala Adi Saiva Vellala Community people of Paraniputhur. According to the revision petitioners, the aforesaid temple is not under the control of the HR&CE Department. The respondent has filed an application in IA.No.16601 of 2015 to implead the first respondent as a party in the aforesaid suit on the ground the aforesaid temple is a public temple and the first respondent is a necessary party and one of the worshiper of the temple. Eventhough, the revision petitioners objected for allowing the application, the court below has erroneously allowed the application.

3. The learned counsel for the revision petitioner would

submit that the prayer in the suit is against the department for declaring the aforesaid temple as a denominational temple. Therefore, first respondent is not a necessary party and ultimately, the first respondent was impleaded as a party without any materials that he is a worshiper of the temple. Therefore, the order of the court below is liable to be set aside.

4. Per contra, the learned counsel for the first respondent would submit that the revision petitioners have filed the suit for declaring the temple as denominational temple. The aforesaid temple is a public temple. Being a worshiper of the temple, the first respondent is also a necessary party in the suit and hence the Civil Revision Petition is liable to be dismissed.

5. By considering the aforesaid facts and circumstances of the case, the trial court has considered the aforesaid application under Order 1 Rule 10 of the Civil Procedure Code. There is a dispute whether the temple is a public temple or denominational temple. The same has to be decided at the time of trial in the suit and the parties have to establish before the court below the right of the temple on the basis of the averments in the plaint. The revision petitioners have specifically

raised the issue that the first respondent is not a necessary party. The said issue can be decided at the time of trial in the suit by way of framing appropriate issues in the aforesaid suit. Therefore, the order of the court below is liable to be confirmed. There is no error or illegality in the order passed by the court below.

6. By consent of both parties, the V Assistant City Civil Judge, Chennai is directed to dispose of the suit in OS.No.6393 of 2015 as expeditiously as possible.

7. In fine, the Civil Revision Petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

13.03.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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To

The V Assistant City Civil Judge,
Chennai.



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D. KRISHNAKUMAR J.,

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