

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.12.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WA.No.2648/2018 & CMP.No.215677/2018

1.Sundaramurthy
2.Kumaravel
3.Selvarasu

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Appellants /
Writ Petitioners

Versus

- 1 The Collector
Cuddalore District
Cuddalore.
- 2 The Divisional Arbitrator /
The Revenue Divisional Officer
Cuddalore.
- 3 The Tahsildar
Panruti Taluk, Panruti
Cuddalore District.
- 4 The Revenue Inspector
Marungur, Panruti Taluk
Cuddalore District.
- 5 The Village Administrative Officer
Perperiankuppam, Panruti Taluk
Cuddalore District.

6 The Superintendent of Police
Cuddalore District, Cuddalore.

7 Arumugham
8 Samikkannu
9 Ramalingam
10 Rajadurai
11 Rajavelu
12 Pazhanivel
13 Selvarasu
14 Rajamanickam
15 Marimuthu
16 Kumaravel
17 Rajendran
18 Ramachandran
19 Thangasami
20 Pazhani
21 Sigamani
22 Pazhanivel

Respondents /
Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letter Patent against the order made in WP.No.2678/2017 dated 19.12.2017.

For Appellants : Mr.M.S.Palaniswamy

For RR 1 to 6 : Mr.E.Manoharan, AGP

For RR 8 to 18 : Mr.Jenasenan

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JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

By consent, the writ appeal is taken up for final disposal and is disposed of by this judgment. Mr.E.Manoharan, learned Additional

Government Pleader appears on behalf of the respondents 1 to 6 and

Mr.Jenasenan, learned counsel appears on behalf of the respondents 8 to 18.

2 The appellants are the writ petitioners. They made a challenge to the order/proceedings of the 2nd respondent dated 11.11.2016 in and by which, the Trusteeship of the appellants/writ petitioners came to be cancelled with further directions, by filing WP.No.2678/2017 and the said writ petition came to be allowed vide impugned order dated 19.12.2017 on the following terms:-

***"[a]** The impugned order is set aside without expressing any view on the merits of the management right as claimed by both parties.*

***[b]** The parties are at liberty to file appropriate Civil Suit before the competent civil court for establishing the right of management of the said Temple.*

***[c]** If any such suit is filed, the civil court shall consider the same on its own merits and in accordance with law.*

***[d]** It is clarified that allowing this writ petition and setting aside the impugned order, shall not be construed as if this Court has expressed any*

view in respect of the management of the Temple in favour of the petitioners or the respondents as this Court has directed both the parties to approach the competent Court to decide the matter."

3 The appellants / writ petitioners, aggrieved by the above said order, has filed the present writ appeal.

4 Mr.M.S.Palaniswamy, learned counsel for the appellants / writ petitioners has drawn the attention of this Court to the additional typed set of documents dated 09.12.2018 and would submit that on an earlier occasion, the Trustee of Arulmighu Subramaniasamy Temple had filed a suit in OS.No.702/1990 against one Shanmugam, Collector of South Arcot District and Tahsildar, Panruti, on the file of the Court of District Munsif at Panruti, praying for permanent injunction restraining the defendants therein from interfering with the affairs of the said temple and the said suit, after contest, came to be decreed on 31.10.1994 and in paragraph No.6 of the said Judgment, while answering Issue No.1, the Trial Court has recorded a finding that one Ramasamy was the Trustee of the said temple and challenge made to the said judgment and decree in AS.No.58/1996 also came to be dismissed by the Court of Subordinate Judge, Panruti, vide Judgment

and Decree dated 16.04.1999 and no further challenge has been made and therefore, the judgment and decree of the Lower Appellate Court has become final.

5 It is the further submission of the learned counsel for the appellants / writ petitioners that the 2nd respondent has no jurisdiction to enter upon the said dispute as to the Trusteeship of the temple and without due and proper application of mind, has cancelled the Trusteeship of the appellants / writ petitioners with further directions and in the challenge made to the said order by te appellants / writ petitioners in the form of writ petition in WP.No.2678/2017, though this Court has allowed the writ petition, has directed both the parties to approach the Civil Forum and the said directions are *per se* unsustainable as it would affect the valuable civil rights of the appellants / writ petitioners to continue as Trustees of the said temple and prays for interference.

6 *Per contra*, Mr.Jenasenan, learned counsel appearing for the respondents 8 to 18 would submit that the appellants / writ petitioners is guilty of mismanaging the affairs of the temple and swindled money collected and the private respondents are managing

the affairs of the temple and also conducted consecration ceremony [Kumbabhishekam] in respect of the said temple and the learned Judge has rightly appreciated the facts and circumstances and directed the parties to approach the civil Forum and prays for dismissal of the writ appeal.

7 The Court heard the submissions of Mr.E.Manoharan, learned Additional Government Pleader appearing for the respondents 1 to 6 and perused the materials placed before it.

8 A perusal of the additional typed set of documents filed on behalf of the appellants / writ petitioners would disclose that subsequently they filed OS.No.95/996 on the file of the Court of District Munsif, Panruti, against Ramasamy and 14 others, praying for a declaration that the suit property in Old S.No.277/4, New S.No.104/11, admeasuring to an extent of 0.56 cents with 15 shops belong to temple and for removal of the thatched sheds put up by the defendant/s therein in the said property and to deliver the vacant possession or in the alternative, praying for mandatory injunction to remove the thatched sheds and deliver the vacant possession and the said suit

came to be dismissed vide judgment and decree dated 27.01.1998 as settled out of Court.

9 It is pertinent to point out at this juncture that the prayer in the said suit does not pertain to the capacity of the appellants / writ petitioners as the Trustees/Administrators of the said temple though the cause title would disclose that the suit has been filed in the capacity of Administrator of Arulmighu Subramaniaswamy, Murugan Koil Street, Perperiankuppam, Panruti Taluk.

10 The learned Judge, after considering and appreciating the materials, found that the 2nd respondent has not jurisdiction to enquire into and decide the dispute with regard to the Management of the private temple and also recorded certain findings as to the person who is entitled to manage the said temple. The learned Judge has also recorded the fact that both parties had admitted that they will go and agitate their respective rights before the competent Civil Court and accordingly, the set aside the impugned order passed by the 2nd respondent with some terms which have been extracted supra. As both parties have admitted to agitate their respective rights before the Competent Civil Forum, it is not open to the appellants / writ petitioners

to challenge the said order as to certain directions given in the impugned order.

11 The learned Judge did not express any finding or opinion as to the right of the respective parties and relegated the same to the competent Civil Court and directed both parties to approach such a Forum. In the considered opinion of the Court, there is no infirmity or error apparent on the face of the record in the reasons assigned by the learned Judge for allowing the writ petition and this Court, on an independent application of mind to the entire materials, is of the considered view that there is no merits in this writ appeal.

12 In the result, the writ appeal is allowed, confirming the order dated 19.12.2017 made in WP.No.2678/2017. No costs. Consequently, connected miscellaneous petition is also dismissed.

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[MSNJ] [PRMJ]
13.12.2018

Internet : Yes
Speaking Order
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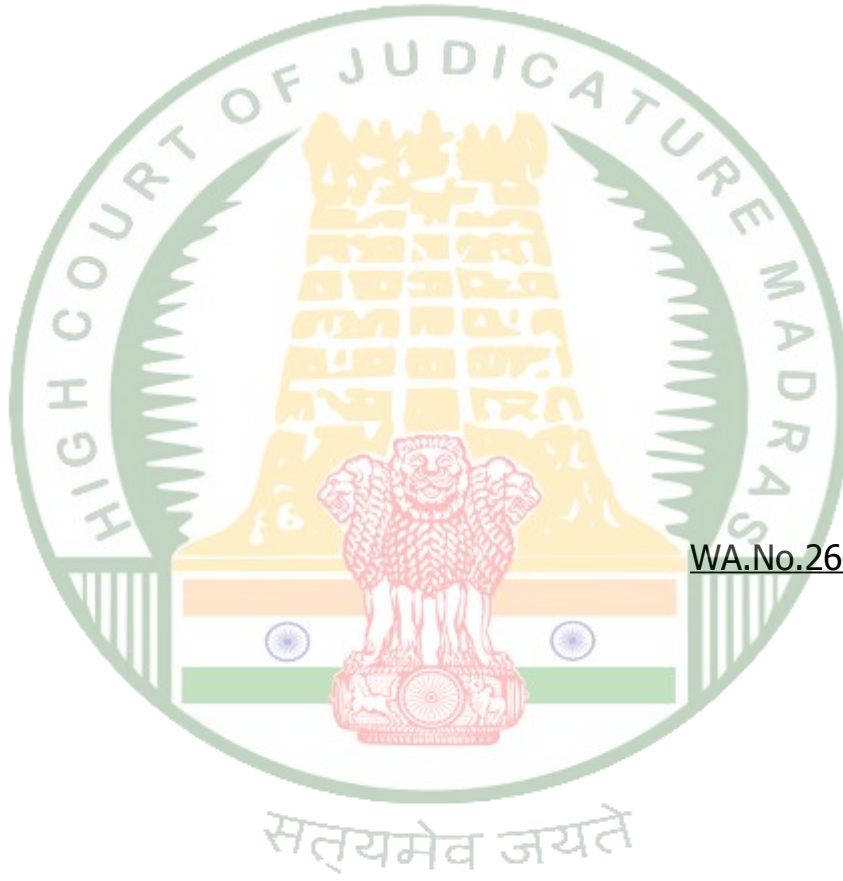
To

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