



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 19.01.2018

DELIVERED ON : 28.04.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.101 of 2018

and

C.M.P. (MD) No.462 of 2018

1.Jeyakumar
2.Rengarajan
3.Ravinarayanan
4.Jeyaratchakkan
5.Damodaran

: Petitioners/Petitioners 1,2,7,14 & 15/
Defendants 1,2,7,14 & 15
vs.

1.Narayanasamy
2.Ponnusamy
3.Subbaraj
4.Vasudevan

: Respondents 1 to 4/Respondents/
Plaintiffs

5.Ramakrishnan
6.Chokkaiyan
7.Radhakrishnan
8.Vishwarooba Kesavan
9.Pandi Chokkappan
10.Sundarraaj
11.Pandi
12.Chokkappan
13.Sundarrajan
14.Poun Chokkaiyan
15.Tahsildar
Peraiyur Taluk Office,
Peraiyur

: Respondents 5 to 15/

Petitioners 3 to 6, 8 to 13 & 16/
Defendants 3 to 6, 8 to 13 & 16

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 15.12.2017 made in I.A.No.732 of 2017 in O.S.No.97 of 2015 on the file of the District Munsif cum Judicial Magistrate, Peraiyur.

For Petitioners : Mr.K.Hemakarthiskeyan

For R1/Caveator : Mr.V.Janakiramulu

ORDER

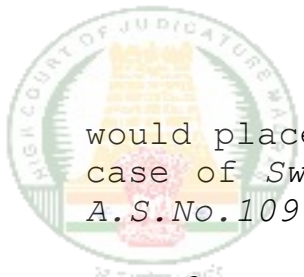
This Civil Revision Petition has been filed challenging the fair and decreetal order passed by the learned District Munsif cum Judicial Magistrate, Peraiyur, in I.A.No.732 of 2017 in O.S.No.97 of 2015 dated 15.12.2017.

2. The brief facts of the case are that the respondents 1 to 4/plaintiffs have filed a suit in O.S.No.97 of 2015 seeking the relief of declaration and consequential injunction. According to the petitioners herein, the said suit itself is not maintainable, as per Sections 6(7), 63 and 108 of Hindu Religious Charitable and Endowments Act (in short "Act") and therefore, they have filed an interlocutory application in I.A.No.732 of 2017, seeking to reject the plaint. The trial Court, after hearing both the parties, had dismissed the said interlocutory application and aggrieved over the same, the present civil revision petition came to be filed.

3. The learned Counsel for the petitioners would submit that they are managing and maintaining the properties of the temple through trust deed dated 20.09.2006. Since the defendants 5 & 6 have acted detrimental to the interest of the temple, they had filed a suit in O.S.No.758 of 2015 before the Sub-Court, Thirumangalam. As a counter blast, the present suit in O.S.No.97 of 2015 before the District Munsif cum Judicial Magistrate Court, Peraiyur, was filed.

4. Moreover, the present suit is barred under the provisions of the Act. As per Section 6(7) of the Act, the territorial jurisdiction, to decide this issue, is with the Sub Court and not with District Munsif Court. He would further contend that as per Section 108 of the Act, Joint Commissioner or Deputy Commissioner (i.e., the Department) is vested with powers to have control, enquire and decide the disputes relating to Temple. In support of his contention, he has relied upon the judgments reported in 2012-1-L.W.483 and 2015 (8) MLJ 738. Without appreciating these facts, the trial Court has erred in dismissing the interlocutory application and therefore, he prays for setting aside the impugned order.

5. On the other hand, the learned Counsel appearing for the first respondent would submit that they have filed the suit for declaring that the suit temple belongs to the two groups of reddy communities and for a consequential injunction restraining the defendants therein from preventing the plaintiffs to worship and to do other formalities. With regard to the bar, as apprehended by the petitioners, the learned Counsel for the respondents would submit that the bar is only in respect of administration of the temple, but, the present suit has been filed for a declaration. The power to grant such reliefs, i.e., relief of declaration, is vested only with the Civil Court. In support of his contention, he



would place reliance on the judgment rendered by this Court in the case of *Swaminathan Vs. Sri Subramaniaswami Deity, Tiruchendur* in A.S.No.109 of 1982, (decided on 25.09.1998).

6. He would further submit that, without admitting, even assuming that the present suit is not maintainable, then the suit filed by the petitioners in O.S.No.758 of 2015 is also not maintainable. Taking into account all these things, the trial Court has rightly dismissed the said interlocutory application and he prays for dismissing the present civil revision petition.

7. Heard the learned Counsel appearing on both sides and perused the documents placed on record.

8. Perusal of the record shows that the suit filed by the petitioners is pending before the Sub Court, Thirumangalam, in O.S.No.758 of 2015 and the respondents/plaintiffs have filed the present suit in O.S.No.97 of 2015 with the prayer to declare the suit temple belongs to the two groups of reddy communities and for consequential injunction restraining the defendants from preventing the plaintiffs to worship and to do other formalities.

9. Learned counsel for the 1st respondent/plaintiff would submit that the present suit has been filed only for declaration in respect of administration of temple and the power to grant declaration vests only with the Civil Court and therefore, he would submit that the Civil suit is maintainable. In support of his contention, he would place reliance on the judgment of this Court in the case of *Swaminathan vs. Sri Subramaniaswami Deity, Tiruchendur* (A.S.No.109 of 1982 dated 25.09.1998).

10. It is also seen from the records that when the petitioners had taken a plea that only the HR & CE Department has got administration over the temple in respect of any dispute, then the suit filed by them in O.S.No.758 of 2015 also may not be maintainable. One another question raised by the petitioners is that the territorial jurisdiction of this particular suit lies with the Sub Court and not before the Munsif Court and therefore, the present interlocutory application and the suit are not maintainable. The learned Judge had not decided on that issue. The respondents/plaintiffs filed a counter stating that the issue regarding territorial jurisdiction was never raised in the written statement and therefore, it cannot be raised. But, the territorial jurisdiction is the legal question and Section 6(7) of the HR& CE Act clearly deals with the territorial jurisdiction, which is extracted hereunder:-

''(7)''Court'' means:-

(i) in relation to a math or temple situated in the Presidency town, the Chennai City Civil Court;

(ii) in relation to a math or temple situated



elsewhere, the Subordinate Judge's Court having jurisdiction over the area in which the math or temple is situated, or if there is no such Court, the District Court having such jurisdiction;

(iii) in relation to a specific endowment attached to a math or temple, the Court which would have jurisdiction as aforesaid in relation to the math or temple;

(iv) in relation to a specific endowment attached to two or more maths or temples, any Court which would have jurisdiction as aforesaid in relation to either or any of such maths or temples.''

11. By taking into consideration Section 6(7) of the HR & CE Act, the learned Judge ought to have rejected the plaint atleast for filing it before the appropriate Court and therefore, in my considered opinion, the order passed by the learned Judge requires interference. Accordingly, the impugned order dated 15.12.2017 made in I.A.No.732 of 2017 in O.S.No.97 of 2015 on the file of the District Munsif cum Judicial Magistrate, Peraiyur, is set aside and if the respondents/plaintiffs so desire, they are at liberty to file the above suit before the appropriate forum which is having jurisdiction.

12. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar (Crl side)

/True copy/

Sub Assistant Registrar

To

The District Munsif cum Judicial Magistrate,
Peraiyur.

+1cc to Mr.S.HEMAKARTHIKEYAN, Advocate, SR.No. 64835

+1cc to Mr.V.JANAKIRAMULU, Advocate, SR.No. 64879

C.R.P. (PD) (MD) No.101 of 2018
and

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GK

KK/KKR/SAR-2/18.05.2018/4P-4C