



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2018

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P.(MD)No.331 of 2014

and

M.P.(MD) No.1 of 2014

Muthuraja Community
in Pappapatty Village,
represented by two of their representatives

1.Karuppaiyan

2.Ramasamy

... Petitioners/1st Defendants

vs

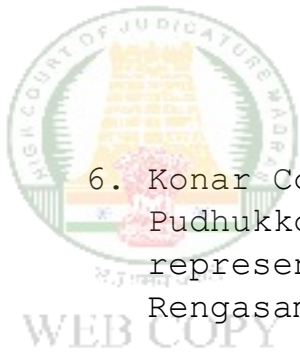
1. Vellalar Community in
Kilangadu Village,
represented by their representative
Rangasamy

2. Kallar Community in
Muthalipatti Village,
represented by their representative
Pitchaiyan

3. Konar Community in
Pudhuviduthi Village,
represented by their representative
Karuppaiyan

4. Konar Community in
Muthanviduthi Village,
represented by its representative
Ramaiah Konar

5. Konar Community in
Kadampatti Village,
represented by its representative
Sivanappan



6. Konar Community in
Pudhukkottaividuthi Village,
represented by its representative
Rengasamy

7. Konar Community in
Peyadipatti East Village,
represented by its representative
Appadurai

8. Konar Community in
Peyadipatti West Village,
represented by its representative
Chinnachamy

9. Konar Community in
Kallumadai Village,
represented by its representative
Sivabalakrishnan

... Respondents/Plaintiffs

10. Sivashanmugam

... Respondent/2nd Defendant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.132 of 2012, pending on the file of the learned District Munsif, Pudukottai.

For Petitioner : Mr.D.Rameshkumar

For R1 to R9 : Mr.N.Balakrishnan

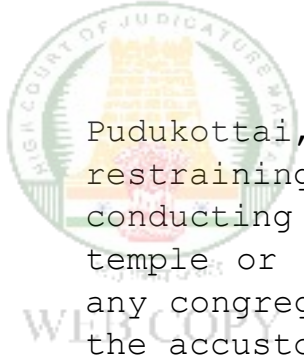
For R10 : Mr.M.Karunanithi

O R D E R

This civil revision petition has been filed to strike off the plaint in O.S.No.132 of 2012, pending on the file of the learned District Munsif, Pudukottai.

2.The first defendant in the suit in O.S.No.132 of 2012, is the revision petitioner herein.

<https://hcservices.courtservice.in/hcservices>
3.The respondents in this civil revision petition filed a suit in O.S.No.132 of 2012, on the file of the District Munsif Court,



Pudukottai, in a representative capacity for a permanent injunction, restraining the defendants from interfering in any manner either by conducting any worship or temple festival in any form in the suit temple or otherwise with the plaintiffs exclusive right to conduct any congregational worship and annual festival in the suit temple in the accustomed manner.

4.The suit was filed in the year 2012. However, after two years from the date of filing the suit, the first defendant in the suit filed the present civil revision petition to strike off the plaint mainly on the ground that the relief sought for in the suit is unconstitutional and to violate the fundamental rights guaranteed to the petitioner under Article 17 of our Constitution. Secondly, it is stated that the temple itself is under the control of HR & CE., Department and that the suit is not maintainable. Thirdly, it is stated that the continuance of the suit with the present prayer, which is against a particular community depriving their fundamental rights guaranteed under the Constitution of India is an abuse of process of law.

5.The grounds raised in this civil revision petition are all un-sustainable and it does not fall within the scope of Order VII Rule 11 of CPC.

6.Merely because, the relief would affect the fundamental rights of another person, the suit cannot be thrown out as one without cause of action. The plaint can be rejected or struck off only on grounds available under order VII Rule 11 of CPC.

7.Though the petitioners say that the suit itself is not maintainable, in view of the fact that it is a public temple and it is under the control of HR & CE, Department, the same can be raised as a defence in the suit. Under normal circumstances, without exhausting the remedy as provided under order VII Rule 11 of CPC, a civil revision petition cannot be entertained.

8.If the suit is barred by any other law or without cause of action, the petitioners are at liberty to file a petition under Order VII Rule 11. Even before this Court, the petitioners have not made out a case that the plaint can be rejected under Order VII Rule 11 of CPC.



9. In these circumstances, this Court find no merit in this Civil Revision Petition and it stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The learned District Munsif,
Pudukottai.

+2 CC to Mr.D.RAMESH KUMAR, Advocate in SR.No.71595 & 71667

+1 CC to Mr.N.BALAKRISHNAN, Advocate in SR.No.71577

MM

RJ/RP/SAR-4/18/07/2018 - 4P/5C

C.R.P. (MD) No. 331 of 2014

06.07.2018