



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.02.2018

CORAM :

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.275 of 2017
and
C.M.P. (MD) No.1305 of 2017

- 1.K.Pudhupatti Vadakku Vatta Arulmighu
Sri Karuppasamy,
Karuppanasamy Temple,
Through its President Suruliyandi, S/o.Velu,
Uthamapalayam Taluk, Theni District
- 2.K.Pudhupatti Vadakku Vatta Arulmighu
Sri Karuppasamy,
Karuppanasamy Temple,
Through its Secretary Subburaj, S/o.Muthukaruppanan,
Uthamapalayam Taluk,
Theni District : Petitioners / Respondents / Plaintiffs

vs.

- 1.K.Pudhupatti Hindu Paraiyar Ina Velayuthamkumbu,
Through its President P.Ravikumar, S/o.Ponniah, Door No.11,
Karuppasamy Koil Street, Ward 9, K.Pudhupatti, Uthamapalayam Taluk,
Theni District ,
- 2.K.Pudhupatti Hindu Paraiyar Ina Velayuthamkumbu,
Through its Secretary Vasagar, S/o.Nainar, Uthamapalayam Taluk,
Theni District
- 3.Veluchamy : Respondents / Petitioners / Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.367 of 2016 in O.S.No.117 of 2013 on the file of the learned District Munsif, Uthamapalayam dated 01.09.2016.

For Petitioners : Mr.R.Mathiyalgan

For Respondents : Mr.K.Guhan

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order passed by the learned District Munsif, Uthamapalayam in I.A.No.367 of 2016 in O.S.No.117 of 2013 dated 01.09.2016.



2. Originally the suit in O.S.No.117 of 2013 was filed by the petitioners/plaintiffs against the respondents/defendants for the relief of permanent injunction restraining the respondents/defendants not to conduct any temple festival in individual manner and not to interfere with the peaceful possession and enjoyment. Pending proceedings, the respondents have filed an interlocutory application in I.A.No.367 of 2016 seeking appointment of Advocate Commissioner, which was allowed, against which the present civil revision petition has been filed.

3. It is represented by the learned Counsel for the petitioners that earlier the respondents herein have filed a suit and they went upto appeal in A.S.No.26 of 2006, which was partly allowed, declaring the title of the respondents herein with regard to the temple alone. Thereafter, the respondents herein have filed a Commissioner application at the E.P., stage and the same was dismissed by the learned Judge, holding that the respondents herein/petitioners therein are entitled for title only in respect of the temple and not other than that. Suppressing these facts, the present Commissioner application was filed and the same was ordered by the Court below, which needs interference by this Court.

4. The learned Counsel for the respondents on the other hand, reiterating the facts, would submit that the extent of the suit property was not correct and the petitioners/plaintiffs have not filed sufficient documents in respect of the title. Therefore, the appointment of Advocate Commissioner is just and necessary. He would further submit that the Advocate Commissioner has visited the suit property and has also submitted his report, which was pending before the Court below.

5. Heard both sides and perused the documents placed on record.

6. It is not in dispute that the learned Judge, while disposing of the earlier suit has left open in respect of the extent of the property owned by the respondents herein. The respondents cannot claim title over properties other than the temple premises, as per the judgment in A.S.No.26 of 2006.

7. It is seen that the Advocate Commissioner, whose appointment is impugned in the present petition, has already submitted his report, which is pending adjudication before the Court below. Therefore, this Court is of the view that no further order is required to be passed in the present petition.

8. In view of the same, this Court, while declining to interfere with the impugned order, directs the petitioners to file their objections to the report of the Advocate Commissioner. On receipt of the objections, the learned Judge shall consider the same and proceed accordingly.



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

Sd/-
Assistant Registrar (P&A)
/True Copy/
Sub-Assistant Registrar

To

The District Munsif,
Uthamapalayam.

Copy to:-

The Record Keeper, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai

+One cc to Mr.R.Mathiyalagan, Advocate, SR.No.49172

+One cc to Mr.K.Guhan, Advocate, SR.No.49258

RL/6C/3P/SKN/RSK/SAR2/28/2/2018

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