



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)No.1346 of 2018 (PD)

and

CMP(MD)No.5839 of 2018

Arulmigu Chidhambara Vinayagar Temple,
Kalliancaud, also called Chidambarapuram
Allor Pakuthi,
rep.by Advocate/Receiver,
M.Balasubramoniam,
Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District. ... Petitioner/Respondent/3rd Party
Vs.

1.M.Narayana Pillai

2.N.Maharajan ... Respondents/Petitioners/Defendants 10 and 11

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the petition in I.A.No.85 of 2018 in O.S No.82/1124 M.E on the file of the the Principal Sub Court, Nagercoil.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.A.Arumugam
for M/s.Ajmal Associates for R1

R2 - No appearance

ORDER

This Civil Revision Petition has been filed by the Advocate/Receiver, appointed by the court below, for striking off I.A.No.85 of 2018 in O.S.No.82/1124 M.E which has been filed for removing him from the office of the Advocate Receivership.

2.The learned counsel for the revision petitioner submitted that there is a trust Known as Arulmigu Chidhambara Vinayagar Temple Trust for which a scheme decree was passed as early as on 29.02.1964 in OS.No.82 of 1124. Periodically advocate receivers have been appointed to manage the property of the trust. The revision petitioner herein Thiru.Na.Balasubramoniam, an advocate was appointed as a trustee on 21.10.2011. Thereafter, in order to retrieve the some of the properties, he began to take steps. In this regard, he sent a letter dated 03.02.2012 to one M.Narayana Pillai, the first respondent herein.

3.The specific allegation made by the revision petitioner is that the said Narayana Pillai in order to wreak vengeance on the revision petitioner instigated one of the beneficiaries by name P.Ramachandran to file an E.A for removing him from the office of



the advocate receivership. Subsequently, the said Ramachandran withdrew his petition. He also filed an affidavit in that regard. Since the attempt of the first respondent was failed, he instigated one Rajendran, the another beneficiary to file E.A.No.401 of 2014. The said application was also subsequently dismissed for non prosecution. Therefore, the first respondent decided to enter the arena directly. He filed I.A.No.85 of 2018 seeking the very same relief and by reiterating the very same allegations set out in the earlier two applications. Contending that the institution of the present I.A is an abuse of legal process, this Civil Revision Petition has been filed for strike of the same.

4. Heard the learned counsel on either side.

5. This Court is of the view that in as much as the earlier applications were filed by different persons and not the first respondent and since the earlier applications were dismissed either as not pressed or for default, the present interlocutory application cannot be struck off from the file. At the same time, this Court notes that allegations have been made against the court officer and that therefore the court below should not keep the I.A pending. Because, that would cause embarrassment to the court appointed advocate/receiver.

6. The court below is therefore directed to dispose of I.A No.85 of 2018 within a period of four weeks from the date of receipt of a copy of this order. With this direction, this Civil Revision Petition is disposed of. It is absolutely made clear that non granting of relief in this Civil Revision Petition will not amount to casting any aspersion on the Advocate/Receiver. It is made clear that this Court has not gone into the merits of the matter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS-II)

To

The Principal Sub Judge, Nagercoil.

+1cc to M/s.AJMAL ASSOCIATES, Advocate, SR.No. 78336

+1cc to Mr.M.THIRUNAVUKKARASU, Advocate, SR.No.78351

CRP (MD) No.1346 of 2018 (PD)
and

CMP (MD) No.5839 of 2018
13.08.2018

SKM

KK/RSK/14.08.2018/SAR-4/2P-4C