



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

C.R.P. (PD) (MD) No.2441 of 2016

and

C.M.P. (MD) No.11488 of 2016

The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Vadaseri Village,
Agastheswaram Taluk,
Kanyakumari District.

...Petitioner / Proposed
Respondent

-vs-

1.Aloor Chettu Oor Vagai Nainar Devia
Vinayagar Pillaiyar Swami Devasthanam Trust,
Rep. By its Members and its beneficiaries,
Aloor Village, Kalkulam Taluk,
Kanyakumari District.

2.T.Gomathi Vinayagam

3.Thiruvambalam Pillai

4.Nagalingam Pillai

5.Vaitheeswaran

6.Kolappa Pillai

7.Thamba Pillai

... Respondents / Plaintiffs
Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order passed by the Additional District Munsif Court, Eraniel in I.A.No.296 of 2013 in O.S.No.181 of 2011 dated 16.07.2014.

For Petitioner : Mr.M.Karuppasamy
Government Advocate

For RR1, 4 to 7 : Mr.M.Mohamed Asif

For R2 : Deceased

For R3 : No Appearance

**ORDER**

O.S.No.181 of 2011 was filed before the Principal District Munsif Court, Eraniel seeking the relief of permanent injunction restraining the defendants from alienating the trust properties except by due process of law. In the said suit HR & CE department wanted to implead itself as party. Therefore, it filed I.A.No.296 of 2013. The Court below by order dated 16.07.2014, dismissed the said application. Questioning the same, the present Civil Revision Petition has been filed.

2.Heard the learned counsel on either side.

3.The learned counsel appearing for the revision petitioner reiterated the grounds set out in the memorandum. In particular he contended that the institutions run by the trust in question are coming under the purview of the Hindu religious and Charitable Endowments Department. In fact, a scheme was framed by the Court long back. If any modification is to be made, only, petition under Section 64 (5) of the Tamil Nadu Hindu religious and Charitable Endowments Act, will have to be filed.

4.I am of the view that since no relief is sought against the Hindu religious and Charitable Endowments Department, they are not a necessary party. That apart, the prayer in the suit itself is for restraining alienation of the trust property except by due process of law. Therefore, nothing prejudicial to public interest or to the department is sought to be ventilated in the suit. In any event, as rightly pointed by the learned counsel for the revision petitioner, Section 34 of the Tamil Nadu Hindu religious and Charitable Endowments Act would apply in the case of alienation of the properties belonging to the religious institution coming under the purview of the Act. Any alienation made against Section 34 of the Act is null and void. Therefore, this should sufficiently protect the interest of the trust. Now the trial appears to have progressed to the argument stage and the suit is posted for judgment. Therefore, at this stage there is no need to permit the Hindu religious and Charitable Endowments Department to get impleaded itself in the suit.

5.There is no merit in this Civil Revision Petition. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To:

1.The Additional District Munsif, Eraniel.

2.Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(**2copies**)

+1CC to Mr.N.MOHAMED ASIF, Advocate, SR.No.80987

+1CC to the Special Government Pleader SR.No. 80748

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ES/SV/SAR 2/24.09.2018/3P/6C