



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (PD) (MD) No.2173 of 2018

and

C.M.P. (MD) No.9666 of 2018

1.Kumaresan
2.Kurunjikumaran
3.Vellaiyan
4.Manthakalai
5.Alagusundaram

...Petitioners/Petitioners 1to 5/
Defendants 2,3,5,8 & 10

-vs-

1.K.Kumar
2.P.Manthaiyan
3.V.Periyampillai
4.M.Perumal
5.V.Perumal
6.K.Karuppaiah

... Respondent/Respondent/Plaintiff

..Respondents/Respondents 2 to 6/
Defendants 1,4,6,7 & 9

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order dated 17.09.2018 made in I.A.No.1715 of 2018 in O.S.No.143 of 2018 on the file of the District Munsif Court, Melur, and allow this Civil Revision Petition.

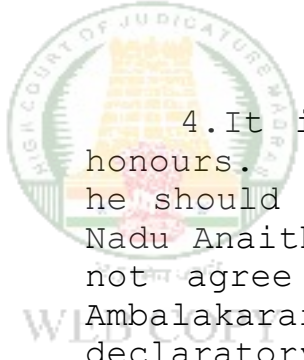
For Petitioner : Mr.R.Vijayakumar
For R1 Caveator : Mr.S.M.A.Jinnah

ORDER

The defendants in O.S.No.143 of 2018 on the file of the District Munsif, Melur are the revision petitioners herein. They filed I.A.No.1715 of 2018 for rejection of plaint. The said application was dismissed by the Court below. The order passed by the Court below is questioned in this Civil Revision Petition.

2.Heard the learned counsel on either side.

3.The learned counsel appearing for the defendants / revision petitioners pointed out that as per Section 63 (e) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, only the authority constituted under the Act can go into the issue as to whether any person is entitled, by custom or otherwise, to any honour.



4.It is true that the suit prayer pertains to the issue of honours. But then, the plaintiff has sought a larger relief that he should be declared as a duly elected Ambalakarar of Vellalalur Nadu Anaithu Mahanam 11 Karai Kallar Community. The defendants do not agree or concede that the plaintiff is the duly elected Ambalakarar. Therefore, the Civil Court can go into such declaratory issues. The authority under the Act cannot give any finding on that question. Therefore, the main relief, for which the suit has been instituted, cannot be said to be barred by the Provisions of Hindu Religious and Charitable Endowments Act, 1959. All the contentions available to the revision petitioners are left fully open. This Court has already given a direction to the trial Court to dispose of the suit itself within a time frame. The said time frame shall be adhered to. So that the issue will not be alive during the next year festival.

5.With these directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To:

The District Munsif, Melur.

+1cc to Mr.R.Vijayakumar, Advocate Sr.No.88254

+1cc to Mr.S.M.A.Jinnah, Advocate Sr.No.88729

TA

VB/SV/SAR4/13.11.2018/2P/4C

C.R.P. (PD) (MD) No.2173 of 2018
03.10.2018