



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2018

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD) No.329 of 2013

and

M.P (MD) No.1 of 2013

1.Fr.Peter Raja
2.S.Peter Raj
3.Irudaya Mary
4.A.Nishanth Joe Raja :Petitioners / Petitioners
Defendants 1 to 4

vs.

1.D.Jeyaraj
2.S.Antony Raj :Respondents 1 and 2 / Respondents 1 and 2 /
Plaintiffs 1 and 2

3.D.Santhana Durai

4.The Correspondent,
St.Anne's High School,
Thattarmadam.

5.The Parish Priest,
St.Anne's Church,
Thattarmadam.

6.The Procurator,
Thoothukudi Diocese,
Thoothkudi. :Respondents 3 to 6 / Respondents 3 to 6
/ Defendants 5 to 8

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed by the lower Court in I.A.No.425 of 2011 in O.S.No.46 of 2011 on the file of the District Munsif Court, Sathankulam, dated 22.11.2012.

For Petitioners

: Mr.R.Anand

For R1 and R2

: Mr.G.Prabhu Rajadurai

For R3 to R6

: No Appearance

ORDER

This Civil Revision Petition is directed against the order passed by the learned District Munsif, Sathankulam, in I.A.No.425 of 2011 in O.S.No.46 of 2011.

WEB COPY

2.The brief facts that are necessary for the disposal of this Civil Revision Petition are as follows:

2.1.The revision petitioners are the defendants 1 to 4 in the suit in O.S.No.46 of 2011 on the file of the District Munsif Court, Sathankulam. The prayer in the suit is for a declaration that the suit property belongs to the 8th defendant in the suit. The 8th defendant in the suit is the Procurator of the Thoothukudi Diocese, Thoothkudi. The case of the plaintiffs in the suit is that the property was purchased by the 8th defendant out of the money contributed by the people of Thattarmadam and that later the land was used for High School, which was earlier under the management of a Christian Organisation. During the pendency of the suit, the defendants 1 to 4 have filed a petition in I.A.No.425 of 2011 in O.S.No.46 of 2011 to reject the plaint under Order VII Rule 7 of Code of Civil Procedure, on the ground that the plaintiffs could not file a suit to get a declaration in favour of the 8th defendant, as the declaration of relief under Section 34 of Specific Relief Act, can be granted only in favour of an aggrieved person.

This petition was dismissed by the lower Court on the ground that the plaintiffs, who are the beneficiaries, entitled to have some rights as members of the Trust can maintain a suit for declaration and other consequential relief, as against strangers to the property. It is further stated that the other issues can be decided only after hearing both sides after recording evidence.

This Court find no infirmity or illegality in the order passed by the lower Court. Plaint can be rejected only if the plaint does not disclose any cause of action or it is barred by law. In this case, based on the contentions raised by the defendants, the plaint cannot be rejected. The petitioners are at liberty to raise all points at the time of trial.

4.As a result, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar



To

1.The District Munsif Judge,
Sathankulam

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.R.Anand, Advocate SR.No. 67395

+1cc to M/S.G.Prabhu Rajadurai, Advocate SR.No. 67818

C.R.P. (PD) (MD) No.329 of 2013
08.06.2018

cmr

JM/RSK/SAR 4/17.07.2018/3P/6C