

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 18TH DAY OF FEBRUARY 2019

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

A.No.1244 of 2019

in

C.S.No.1014 of 2008

1. S.Jadav Chand Kanuga,
S/o.Sohanrajji Kanuga,
residing at 58, V.V.Koil Street,
Choolai, Chennai-600 112.
2. Ratan Chand Chhallani,
S/o.C.Tara Chand Chhallani,
residing at 41, Mookathal St.,
Purasaiwalkam, Chennai-600 007.
3. G.Ashok Chand Dakalia,
S/o.Late H.Gyanchand Dakalia,
residing at 27, Subba Naidu St.,
Choolai, Chennai-600 112.
4. K.Tarachand Golecha,
S/o.Kishan Chandji Golecha,
residing at No. 116, Choolai High Road,
Choolai, Chennai-600 112.
5. Suresh Chand Jhabak S/o.Tarachand Jhabak,
residing at No.92, Vepery High Road,
Shantisagar Apartment,
Vepery, Chennai-600 007.
- *6. J.Harak Chand Golecha,
S/o. Late B.Jamnala Golecha,
98, Choolai High Road,
Chennai 600 112.
- *7. T.Shantilal Golecha,
Vasupujya Apartments,
A Block Flat No.5
51, Huuters Road,
Chennai 600 112.

.. Plaintiffs

* Plaintiffs 6 and 7 impleaded as per order of Court in
A.No.457/2011 dated 24.02.2011 and time extended as

-Versus-

1. Sri Chandraprabha Jain Swetambar Temple,
through its Managing body Sri Choolai
Bazaar Jain Sangh @ Shri Choolai Jain Sangh
@ Shri Chollai Moortipujak Jain Sangh
@ Sri Sangh Choolai Bazaar situated at
No.38, Venkatachala Mudali Street,
Choolai, Chennai-600 112,
and its working committee consisting of:

- a) Rajendra Kumar Kochar,
S/o.Ratan Chandji Kochar,
residing at Old No.46, New No.30,
Venkatachala Mudali St.,
Choolai, Chennai-600 112.
- b) Hemchand Vaid,
S/o.Heerachandji Vaid,
residing at No.16/57, Baker Street,
Choolai, Chennai-600 112.
- c) Tarachand Kochar,
S/o.Mishrilalji Kochar,
residing at 34/3, (New No.27),
Vathiyar Kandan Street,
Choolai, Chennai-600 112.
- d) Punamchand Dakalia,
S/o.Hemrajji Dakalia,
residing at No.47,
Narasinga Perumal Koil Street,
Choolai, Chennai-600 112.
- e) Lalchand Lunavat alias Milapchand Lunavat,
S/o.Gulabchandji Lunawat,
No.6, Vathiyar Kandan Street,
Choolai, Chennai-600 112.
- f) Sunilkumar Sancheti,
S/o.Ganmalji Sancheti,
residing at 126/2, Choolai High Road,
Choolai, Chennai-600 112.
- g) Heeralal Golecha,
S/o.Manaklalji Golecha,
residing at 54/70, Maddox Street,
Choolai, Chennai-600 112.
- h) Heerachand Nimani,
S/o.Jeevachandji Nimani,

residing at No.13, Anantha Krishnan Street,
I Floor, Choolai, Chennai-600 112.

- i) Rajendrakumar Kanuga,
S/o.Jalamchandji Kanuga,
residing at No.93, V.V.Koil Street,
Choolai, Chennai-600 112.
2. Sri.Prakash Chand Golecha,
S/o.Ranulalji Golecha,
residing at No.4, Subba Naidu Street,
Choolai, Chennai-600 112. ... Defendants

A.No.1244 of 2019:

1. Sri Chandraprabha Jain Swetambar Temple,
through its Managing body Sri Choolai
Bazaar Jain Sangh @ Shri Choolai Jain Sangh
@ Shri Chollai Moortipujak Jain Sangh
@ Sri Sangh Choolai Bazaar situated at
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S/o.Jalamchandji Kanuga,
residing at No.93, V.V.Koil Street,
Choolai, Chennai-600 112.
2. Sri.Prakash Chand Golecha,
S/o.Ranulalji Golecha,
residing at No.4, Subba Naidu Street,
Choolai, Chennai-600 112.
- ...Applicants/Defendants

3.D.Manoj Gulecha
S/o.Sri Devraj Gulecha
No.4, Subba Naidu Street
Choolai, Chennai - 600 112

...Proposed party

-Vs-

1. S.Jadav Chand Kanuga,
S/o.Sohanrajji Kanuga,
residing at 58, V.V.Koil Street,
Choolai, Chennai-600 112.
2. Ratan Chand Chhallani,
S/o.C.Tara Chand Chhallani,
residing at 41, Mookathal St.,
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Vasupujya Apartments,
A Block Flat No.5
51, Huuters Road,
Chennai 600 112.

... Plaintiffs/Respondents

Application praying that this Hon'ble Court be
pleased to the proposed party should not be impleaded as
party - 3rd defendant in the above suit.

This Application coming on this day before this
court for hearing the court made the following order:

The prayer sought for herein is to implead the third
respondent proposed party as one of the defendants in
the suit.

2. Heard Mr.T.Viswanathan Rao, learned counsel
appearing for the applicants, Mr.Prahlad Bhat, learned
counsel appearing for the respondents / plaintiffs and
Mr.K.G.Vasudevan & Praveen Sethia, learned counsel
appearing for the proposed party.

3. It is the submission of the learned counsel
appearing for the respondents in this application that,
the first respondent / temple has been established some
time in the year 1930 and it has been maintaining by the
community people and according to them, there has been

some definite scheme as to how, the temple has to be maintained and so far, as per the legal arrangement, the temple has been maintained. It is the counter case between the parties that, there had been a Trust Deed in the year 2007 and in this regard, though there has been a dispute basically between the parties, the learned counsel for the plaintiffs would submit that, assuming there has been a Trust Deed in the year 2007, according to the recital and terms and conditions of the said Trust Deed only, the temple should have been administered.

4. Be that as it may, now the issue is pending before this Court in the suit and the suit is also in the trial stage where PW1 is in the witness box.

5. At this juncture, the present application has been filed by the defendants, stating an allegation that, the third respondent is not a party to the suit, is not also part of the Administering Committee of the first defendant temple, nor he has any role in any administration of the temple. However, he, claiming to be one of the member, called for a meeting of the General Body and to have an election to that effect on 17.02.2019 i.e., yesterday.

6. In fact, this matter has been mentioned and was taken up on 15.02.2019, however on that day, since the respondents in this application did not appear before this Court, since the same has been taken, as mentioned

urgent matter by way of additional list, for the presence of all the parties, it is posted today.

7. In the meanwhile, it is the claim of the learned counsel for the plaintiffs as well as the third party that, there had been some meeting on last Sunday, i.e., on 17.02.2019, where a team of people had been selected for administering the temple.

8. This Court prima facie finds that, the meeting said to have been conducted on 17.02.2019 and the alleged election said to have been taken place on that day and the alleged meeting, selection or election of administering Committee, as alleged by the plaintiffs and third party, shall not have any effect, since the issue to frame a scheme is very well pending in this Court in the present suit. If at all the plaintiffs have got any grievance against the present administering Committee i.e, nine members representing the first respondent / temple as well as the second defendant, a suitable application can be filed before this Court seeking for any interim arrangement, during the interregnum, till the scheme is framed by this Court in the main suit. Without resorting for any such move, neither party has got any right to have any independent meeting or selection or election method and by which, if they claimed that, a team of people have been selected to administer the temple, that will not have any effect and therefore, this

Court has no hesitation to hold that, the meeting, if any conducted, whatever name be called, or any General Body Meeting, the said election is hereby declared to be an unlawful one and therefore, that will not have any effect in administering the first defendant temple.

9. As a sequel, the present set of administering committee or working Committee as claimed by the plaintiffs in the very suit itself, shall continue to administer the temple, till alternative arrangement is made. If the same is needed, it shall be triggered by the plaintiffs by filing appropriate application.

10. In view of the above, this Court also is of the view that, the third respondent / proposed party in this application is not a necessary party to be impleaded in the suit. Hence the said prayer sought for in this application to implead him as one of the defendants in the suit is hereby rejected. Accordingly, this application is rejected, insofar as the prayer claimed herein is concerned. However, the above findings in this order in respect of the alleged meeting or election allegedly held on 17.02.2019 or on any other previous date, that shall have no effect in administering the first defendant temple.

11. It is also made clear that, there shall be no further election or general body meeting to elect or

select the administering Committee of the temple, other than the present set up i.e, working Committee with nine members represented the first defendant.

With these directions, this application is disposed of.

Sd./- R.S.K.J.

18.02.2019

//Certified to be a true copy//

Dated this the day of 2019.

DL/27.02.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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