

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

CRP.(PD)No. 458 of 2016

and

CMP.No.2351 of 2016

1. Ramasami Gounder
2. Appichi Gounder

...Petitioners/Petitioners/
Defendants 1 & 2
Vs

1. Kuppanna Gounder
2. Ramasami Gounder ..Respondents/Respondents 1 & 2 /
Plaintiffs 1 & 2
3. Govindaraj
4. Shanmugham
5. Karruppana Gounder
6. Ravi Kumar
7. Kumarasami
8. Duraisami
9. Vijayalakshmi
10. S. Sampurnam
11. C. Shanmughasundaram
12. Subramani
13. S. Loganathan
14. Muthusami
15. Palaniammal ..Respondents/Respondents 1,2,5 to 17/
Plaintiffs 1,2,5 to 17.
16. State of Tamil Nadu rep. By
District Collector,
Erode District,
Erode -638011.
17. The Superintending Engineer,
Tamil Nadu Electricity Board,
Erode.
18. Dhanalakshmi
19. Thavamani
20. Jayamani
21. Saradhamani
22. Kuppayal
23. Palaniammal

..Respondents/Respondents
18-25/Defendants 3-10.

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and final order dated 25-08-2015 made in I.A.No.709 of 2015 in O.S.No.544 of 2007 on the file of the I Additional District Munsif's Court, Erode.

For Petitioners : Ms. Zeenath Begum
For Respondents : Mr. T. Sundar Rajan for r8
R1, R6, R7, R9 to R15 -
Not ready in notice
R16 to R23- given up

O R D E R

The above Civil Revision Petition is filed challenging the order passed by the I Additional District Munsif, Erode in rejecting the application filed by revision petitioners/defendants 1 and 2 to reject the plaint in O.S.No.544 of 2007. The rejection was sought on two grounds.

a) that the suit is barred by section 14 of the Tamil Nadu Passbook Act and

b) that the suit is barred by provisions of sections 63 and 64 of the Hindu Charitable and Endowments Act, 1959.

2. The facts in brief necessary to dispose of the Revision are as follows: The plaintiffs had filed the suit against the revision petitioner and others for the following reliefs:

1. for a mandatory injunction directing the 3rd defendant Tamil Nadu Government to restore the name of poojaris of the suit temple in Madathupalayam of Enjampalli Village in Patta No.1128 of Enjampalli Village in Erode Taluk.

2. for a perpetual injunction restraining the 4th defendant Tamil Nadu Electricity Board from an electric supply to Appichimar Koil at Madathupalayam except on the application of the poojaris-cum-trustees of Appichimar Koil at namely plaintiffs herein Madathupalyam in Enjampalli Village in Erode Taluk.

3. for a perpetual injunction restraining defendants 1 and 2 from interfering with the management and control at Appichimar Koil at Madathupalayam in Enjampalliv Village of Erode Taluk.

3. Therefore, from the reading of the reliefs, it is clear

that the reliefs two and three are not barred and the first relief, in case the plaintiffs were to amend the prayer as one for declaration of title would also not be barred.

4. In these circumstances, I do not find any infirmity in the order passed by the I Additional District Munsif, Erode. The proviso to section 14 gives the aggrieved parties the right to institute a suit, in case their right and title are being denied and an entry in the passbook has been made against the aggrieved parties provided they seek for declaration and for amendment of the entry made. It is very much open to the plaintiffs to amend the plaint to include the relief of declaration so as to bring it within the proviso to section 14.

5. The Civil Revision Petition is therefore dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

mrn

To

1.The I Additional District Munsif Court,
Erode.

+1 CC to Mr.T.Sundara Rajan, Advocate sr 24603.

सत्यमेव जयते

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VBA (CO)
SP (03/05/2019)

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