

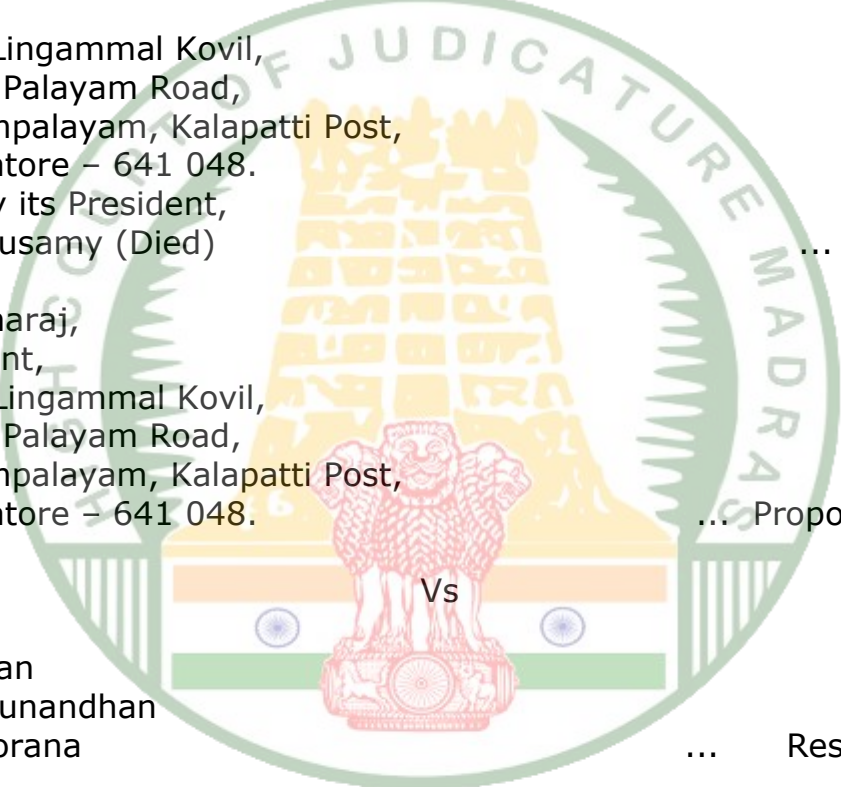
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP(PD)No.3879 of 2014

- 
- 1.Shree.Lingammal Kovil,
Kurum Palayam Road,
Valiyampalayam, Kalapatti Post,
Coimbatore – 641 048.
Rep. by its President,
K.Muthusamy (Died) ... Petitioner
- 2.M.Dhanaraj,
President,
Shree.Lingammal Kovil,
Kurum Palayam Road,
Valiyampalayam, Kalapatti Post,
Coimbatore – 641 048. ... Proposed Party
- Vs
- 1.P.Kannan
2.K.Raghunandhan
3.Mrs.Poorana ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the Fair and Final Order dated 18.03.2014 passed in I.A.No.2431 of 2013 in O.S.No.721 of 2012 on the file of the Principal District Munsif of Coimbatore.

For Petitioner : Mr.P.R.Balasubramanian
For Respondents : Mr.J.Pothiraj for R1 to R3

ORDER

The instant Civil Revision Petition has been filed challenging the order dated 18.03.2014, passed by the learned Principal District Munsif, Coimbatore in I.A.no.2431 of 2013 in O.S.No.721 of 2012.

Brief facts leading to the filing of the instant revision:

2.The petitioner is the plaintiff in the suit in O.S.No.721 of 2012, pending on the file of the learned Principal District Munsif, Coimbatore. The said suit was filed by the plaintiff for declaration and injunction. Pending the suit, I.A.No.2431 of 2013 was filed by the petitioner, seeking for amendment of the plaint under Order 6 Rule 17 CPC to amend the name of the President of the plaintiff temple. According to the petitioner, the erstwhile President K.Muthusamy died on 30.01.2013, which necessitated the petitioner to file the amendment application to substitute the name of M.Dhanaraj as President in place of K.Muthusamy. Along with amendment application, a resolution was also filed by the plaintiff temple which authorized M.Dhanaraj to be substituted as President of the plaintiff temple in place of K.Muthusamy. A counter affidavit was also filed by the respondent in I.A.No.2431 of 2013.

3.By order dated 18.03.2014, the trial Court dismissed I.A.No.2431 of 2013.

4.Aggrieved by the dismissal of I.A.No.2431 of 2013, the instant Civil Revision Petition has been filed under Article 227 of the Constitution of India.

5.Heard Mr.P.R.Balasubramanian, learned counsel for the petitioner and Mr.J.Pothiraj, learned counsel for the respondents.

6.This Court has perused and examined the impugned order. Even before trial, where the parties will be given an opportunity to let in oral and documentary evidence and rebut the allegations of each other, the trial Court has considered the merits of the main suit. The application that has been dismissed is only an interlocutory application and even if it is allowed will not prejudice the interest of respondent in the main suit. The application has been filed only to substitute the name of M.Dhanaraj as President of the petitioner/plaintiff temple in place of K.Muthusamy. According to the petitioner, the said K.Muthusamy died on 30.01.2013. The prayer sought for by the petitioner in I.A.No.2431 of 2013 is an innocuous prayer. However,

the trial Court even before trial has passed a detailed order considering the merits of the main relief sought for in O.S.No.721 of 2012.

7.This Court is of the considered view that the impugned order passed by the trial Court is an erroneous order has been passed without application of mind.

8.For the foregoing reasons, the impugned order dated 18.03.2014, passed in I.A.No.2431 of 2013 in O.S.No.721 of 2012 by the learned Principal District Munsif, Coimbatore, is hereby set aside and the Civil Revision Petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.08.2019

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Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order

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To

The Principal District Munsif, Coimbatore.

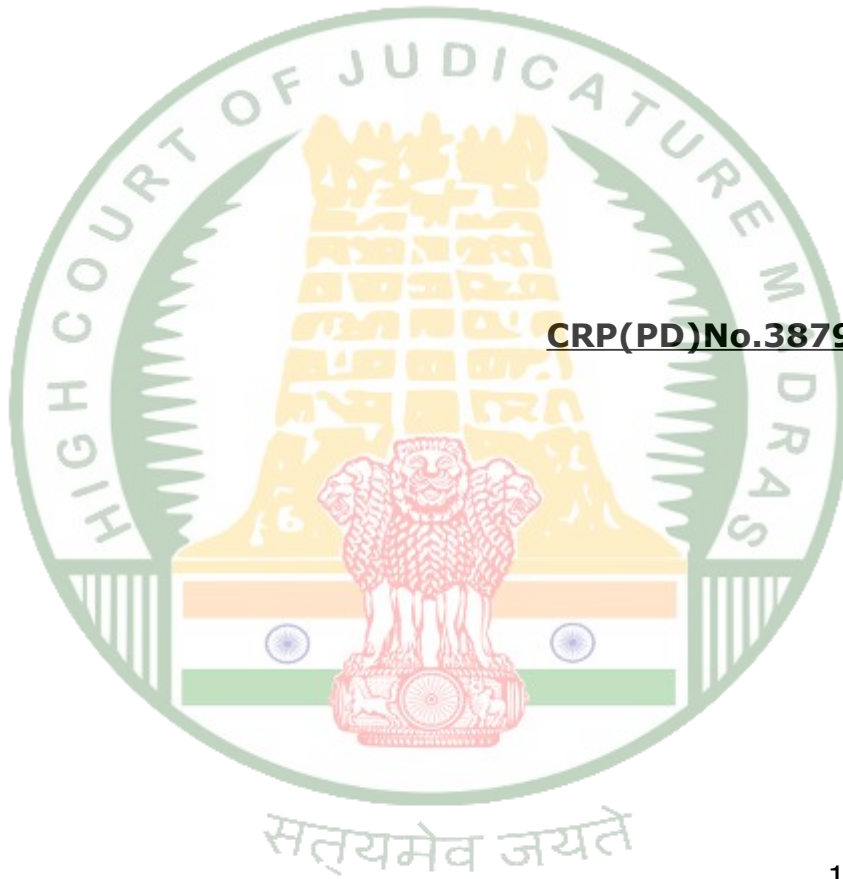


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ABDUL QUDDHOSE, J.

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