



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.06.2019**

CORAM

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THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

C.R.P (MD) No.818 of 2019 (PD)
and
C.M.P (MD) No.4976 of 2019

1.Subbiah

2.Ganesan

.. Petitioners/
Plaintiffs

Vs.

1.The District Collector,
Sivagangai, Sivagangai District.

2.Revenue Divisional Officer,
Devakottai, Sivagangai District.

3.The Tashildar,
Devakottai, Sivagangai District.

4.Manickam

5.Shanmugam

6.Ramanathan

7.Muthu

8.Sivasami Udayar

9.Sakthivel

10.Sivasamy

11.Veeramani

12.Palanichamy

13.Vairavasundharam

.. Respondents/
Defendants



11.03.2019 made in I.A.No.2 of 2019 in O.S.No.49 of 2017 by the District Munsif Court, Devakottai.

For petitioners : Mr.J.Anandkumar

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ORDER

Against the dismissal of amendment application, this revision has been filed.

2.The petitioners / plaintiffs filed O.S.No.49 of 2017 for the relief of permanent injunction restraining the defendants not to disturb the first petitioner / first plaintiff from doing poojas as poojari for the temples, which are situated in the suit property. Pending suit, the petitioners /plaintiffs have filed I.A.No.2 of 2019 seeking to amend the plaint by impleading the relief of declaration declaring that the suit property is belonged to Government. The Court below has dismissed the same, against which, the present Civil Revision Petition has been filed.

3.The learned counsel appearing for the petitioners / plaintiffs would submit that the suit property is a Government land. Since, the respondents / defendants in their written statement claimed title over the suit property, relief of declaration is essential and therefore, the petitioners / plaintiffs filed the present petition seeking to amend the plaint by impleading the relief of declaration, declaring the suit property as Government land, for which, the petitioners / plaintiffs filed the present petition. But, the Court below has erroneously dismissed the petition. Thus, he prayed to set aside the same. He would also rely on the Judgment of the Hon'ble Supreme Court in **Kunjan Nair Sivaraman Nair v. Narayanan Nair and Others** reported in **2004(1) CTC 628** and this court in **Rengarajan & Another v. Rajendran & Another** reported in **2017-4-L.W.465**.

4.Heard the learned counsel for the petitioners / plaintiffs and perused the materials available on record.

5.Perusal of records would show that the petitioners / plaintiffs have filed the suit only for the relief of permanent injunction restraining the defendants not to disturb the first petitioner / first plaintiff from doing poojas as poojari for the temples, which are situated in the suit property. Both the parties in the suit admitted that the suit property belonged to the Government. Therefore, there is no dispute with regard to the right of the suit property. The petitioners / plaintiffs have sought for the relief of permanent injunction in respect of poosari right of temples situated in the suit property. Therefore, the relief of declaration is not maintainable and such a petition has been filed at the stage of arguments, which in my considered opinion, is only to protract the proceedings.



Considering the above aspects, the learned Judge has rightly dismissed the petition, which requires no interference at the hands of this Court. The facts of the Judgments relied by the learned counsel, are different from the case on hand. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

smn

To

1.The District Munsif,
Devakottai.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.J.ANANDKUMAR ,Advocate,Sr.No.72259

**ORDER MADE IN
C.R.P (MD) No.818 of 2019 (PD)**

BUC (11.07.2019) 3P 5C