IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.2321 of 2010

Sri Virubaksheeswarar Temple,
Kammasamudiram Village,
Fit Person (Thakkar),
Solapuri Amman Temple,
Kosapet, Vellore - 1. ... Petitioner/plaintiff/Petitioner

Versus

1.The Collector of North Arcot
Ambedkar District,
Sathuvachari,
Vellore - 9.

2.The Tasildar,
Fort, Vellore - 5.

3.The Agricultural Income Tax Officer,
No.16, Khaja Mean Street,
Palakarai,
Thiruchirapalli. ... Respondents/Defendants/Respondents

Civil Revision Petition filed under Section 115 of Code of Civil Procedure, against the order and decreetal order dated 17.02.2010 made in I.A.No.1076 of 2007 in O.S.No.1564 of 1993 on the file of the Additional District Munsif Court, Vellore.

For petitioner : Mr.A.U.Ilango
For Respondents: Mr.S.Jaganathan, (for R1 & R2)
Government Advocate
: No Appearance - R3

ORDER

The plaintiff is the petitioner herein.

2.The Sri Virubaksheeswarar Temple filed the suit in O.S.No.1564 of 1993 to declare the assessment made by the third defendant for agricultural income tax and directing the plaintiff/temple to pay Rs.10,029/- for the assessment year 1989-1990 is arbitrary and for a consequential permanent injunction restraining the defendants from recovering the amount from the plaintiff temple for the period prior to 14.11.1992 towards agricultural income tax.

3.The respondents have filed a written statement by denying all the averments made in the plaint.

4.When the suit was posted for trial on 12.08.2012, it is claimed that private persons, who were appointed as Trustee of the Temple by then, did not prosecute the suit, with the result, the suit was dismissed for default on 11.09.2002. Subsequently, I.A. No. 1076 of 2007 was filed to condone the delay of 566 days in filing an application to set aside the order of dismissal. The said application was dismissed by the Trial Court on 17.02.2010, hence, the Civil Revision Petition.

5.It is stated that at the relevant point of time, new Trustees were appointed by the Temple authority, but they did not appear before the Court to prosecute the suit, which resulted in passing the order dismissal of the suit for default. Considering the nature of the prayer sought for in the suit and also the fact that the agricultural income tax has been levied upon the Temple and the pleadings in the plaint that even before the HR & CE could take over the temple and it's properties, the demand for agricultural income tax has been levied.

6.Taking note of the entirety of the fact that the delay of 566 days is condoned and I.A.No.1076 of 2007 stands allowed. The Additional District Munsif Court is directed to take the application in I.A.No.1076 of 2007 filed under Order IX and Rule 9 of CPC., and dispose the suit on merits, within a period of eight weeks from the date of receipt of a copy of this order. Thus, the Civil Revision Petition is allowed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Additional District Munsif Court, Vellore.

+1 cc to Special Government Pleader(Cs) sr14350
+1 cc to Mr.A.V.Ilango Advocate sr14108

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pvs(co)
aa17/04/2020