

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 04TH DAY OF FEBRUARY 2020

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.NO.456 OF 2020

1.M.P.UDHAYA KUMAR

M/AGE 45 YEARS,

S/O.PANDURANGAN,

NO.74, NARAYANA MUDALI STREET,

CHENNAI-600 001

2. JAI KUMAR

M/AGE 46 YEARS

S/O.NEELA RAMAIAHCHETTY,

NO.11/23, VARDHAMUTHIAPPAN STREET,

CHENNAI-600 001.

..PLAINTIFFS

-VS-

1. SRI PERIYALWAR TRUST,

REPRESENTED BY ITS HERIDITARY TRUSTEE,

DR.MANALI R.SRINIVASAN,

SRI CHENNAMALLESSWARAR AND

CHENNAKESAVAPERUMAL DEVASTHANAM,

NO.85, DEVARAJA MUDALI STREET,

PARK TOWN, CHENNAI-600 003.

2.MR.V.SUBRAMANIAN,

NO.29, RAJA STREET, RAJA ANNAMALAI PURAM,

CHENNAI-600 028.

3. MR.K.RAJU

THE MODERN LACE GARLANDS,

NO.24, DEVARAJAN MUDALI STREET,

PARK TOWN, CHENNAI - 600 003.

4. MR.T.ANJANKUMAR,

ANJAN AGENCIES,

NO.199, RASAPPA CHETTY STREET,

PARK TOWN, CHENNAI-5600 003.

5. CHINNI SUBBAIAH CHETTY CHARITIES,

NO.37, MALAYAPERUMAL STREET,

CHENNAI-600 001.

6. THE COMMISSIONER,
HINDU RELIGIOUS AND
CHARITABLE ENDOWMENTS DEPARTMENT,
NO.119, UTHAMAR GANDHI SALAI,
THOUSAND LIGHTS WEST,
NUMGAMBAKKAM, CHENNAI-600 034.

7. THE JOINT COMMISSIONER,
HINDH RELIGIOUS AND
CHARITABLE ENDOWMENTS DEPARTMENT,
NO.119, ETHAMAR GANDHI SALAI,
THOUSAND LIGHTS WEST,
NUNGAMBAKKAM, CHENNAI-600 034.

8. THE EXECUTIVE OFFICER,
HINDH RELIGIOUS AND
CHARITABLE ENDOWMENTS DEPARTMENT,
NO.119, ETHAMAR GANDHI SALAI,
THOUSAND LIGHTS WEST,
NUNGAMBAKKAM, CHENNAI-600 034.

..DEFENDANTS

Application praying that this Hon'ble Court be pleased to grant the leave to the Applicants/Plaintiffs to sue against the Respondents 1 to 4/Defendants 1 to 4 to institute the suit.

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

This application is filed under Section 92 of the Code of Civil Procedure to grant leave to the applicants to file a suit against defendants 1 to 4.

2. I heard the learned counsel for the applicants.

3. The learned counsel for the applicants submitted that the applicants are members of the Arya Vysya Community and that they are worshippers at Sri Chennakesava Perumal Temple and consequently, qualified as persons who are interested in the affairs of the fifth respondent Trust. He further submitted that a scheme decree was framed in C.S.No.270 of 1939 by this Court on 03.04.1940 in respect of the management of the fifth respondent Trust. As per the said Scheme Decree, the fifth respondent's Trustees were expressly named therein. In case of vacancy, the manner of appointment of the succeeding trustees has been clearly

specified in the said scheme decree. Clause 12 of the Scheme Decree enables any worshipper at the Temple of Sri Chennakesavaperumal to apply to the High Court of Judicature for the appointment of a new Trustee.

4. He also pointed out that the applicants, acting through the Tamilnadu Arya Vysya Maha Sabha, submitted a representation dated 26.11.2018 to the Hereditary Trustee of the fifth respondent Trust in respect of the unlawful manner of appointment of the trustees. In response to the said representation, a communication dated 02.01.2019 was issued to the alleged Trustees namely, respondents 2, 3 and 4 herein, bringing it to their notice that such complaint had been received. In spite of the same, the learned counsel submitted that they did not take appropriate action and instead, questioned the entitlement of the Sabha to question their appointment.

5. The learned counsel also pointed out that the affairs of the Trust are being mismanaged. In support of this submission, he referred to the receipt dated 12.12.2011 for a sum of Rs.4,75,000/- and pointed out from the endorsement on the receipt that it is in respect of a sale agreement dated 12.09.2010 and that it is an advance. By referring to the aforesaid, the learned counsel submitted that such transactions should not be undertaken without the express permission of this Court especially in view of the Scheme Decree. For all these reasons, he pointed out that the applicants are entitled to leave under Section 92 of the Code of Civil Procedure.

6. I considered the submissions of the learned counsel for the applicants and examined the affidavit filed in support of the application and the relevant records.

7. The applicants state that they are members of the Arya Vysya Community and also that they are worshippers at the Chenna Kesava Perumal Temple. Consequently, they are qualified as persons interested in the management of the

Trust. In fact, clause 12 of the Scheme Decree confers a right on worshippers at the temple of Sri Chennakesavaperumal to apply to this Court for the appointment of a New Trustee. In this case, I find that the suit is proposed to be filed to restrain the defendants from interfering with the Administration of the Trust and for removal of defendants 1 to 4 as trustees and for appointment of new trustees as per the scheme decree for the fifth defendant.

8. Upon considering the submissions of the learned counsel and on examining the scheme decree and correspondence, I find that the applicants have established a case to allow this application so as to enable them to institute the suit. Accordingly, this application is allowed and leave is granted to the applicants herein to sue defendants 1 to 4.

Sd/.S.K.R.J.

04.02.2020

//Certified to be a true copy//
Dated this the day of 2020.

SU/13.02.2020

COURT OFFICER

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

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