



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 10.02.2020
DELIVERED ON : 20.05.2020
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (MD) No. 2148 of 2019

and

C.M.P. (MD) No. 11292 of 2019

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1. Thengampudur Hindu,
Vellalar Samudhaya Trust,
Rep. By 2 to 6 plaintiffs,
Thengampudur,
Thengampudur Village,
Agasteeswaram Taluk,
Kanyakumari District.

2. B. Subramaniapillai

3. P. Ramanathapillai

4. S. Ramasamipillai

5. R. Santhanakumar

6. P. Nagendran

... Petitioners/Petitioners/
Plaintiffs

Vs.

1. The Commissioner,
H.R. & C.E. Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 004.

2. Joint Commissioner,
H.R. & C.E. Department,
Palayamacottai,
Tirunelveli - 627 002.

3. Assistant Commissioner,
H.R. & C.E. Department,
Vadiveeswaram, Nagercoil,
Vadiveeswaram village,
Agasteeswaram Taluk,
Kanyakumari District - 629 002.

.. Respondents / Respondents /
Defendants

Prayer: This Civil revision petition has been filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 30.10.2019 passed in I.A.No.2 of 2019 in O.S.No.170 of 2017 on the file of the Principal Sub Court, Nagercoil.

<https://hcservices.ecourts.gov.in/hcservices/>



For Petitioners
For Respondents

: Mr.D.Nallathambi
: Mr.Ka.Mu.Muthu, AGP

ORDER

Heard learned counsel appearing on either side.

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2.This Civil Revision Petition has been filed against the order passed in I.A.No.2 of 2019 in O.S.No.170 of 2017 dated 30.10.2019, on the file of the Principal Sub Court, Nagercoil.

3.The petitioners herein are the plaintiffs and the respondents herein are the defendants in the suit. The petitioners have filed a suit in O.S.No.170 of 2017 for a prayer of declaration to declare the temple as private denominational temples that belong to the first plaintiff Trust, for mandatory injunction to surrender the administration of the temple and to remove the hundial and for permanent injunction from doing anything to change the nature and physical features of the temple. In that suit, the petitioners herein has filed a petition in I.A.No.2 of 2019 to call for records from the defendants.

4.Brief substance of the application in I.A.No.2 of 2019 is as follows:

The temples by name Arulmighu Santhana Mariyammal Thirukovil and Uchimakaliamman Thirukovil, Thengampudur village belongs to the Hindu Vellalar Samuthaya Trust. The plaintiffs are the trustees. The defendants have no right over the temple. The temple was administrated by the plaintiffs and their predecessor for the past 300 years. The administration was handed over to the Government on temporary basis on 17.02.1989. The case of the plaintiffs is that the 4th defendant did not maintain the temple properly. The priest of the temple and the 4th defendant colluded together and they defrauded the properties and the money that belongs to the temple and that so many articles are found missing in the temple and that a resolution was passed by the Trust to file the suit.

5.Brief substance of the counter in I.A.No.2 of 2019 is as follows:

After the completion of plaintiffs side evidence and at the stage of completion of defendants side evidence, the plaintiffs have come forward with this petition. The petitioners are claiming accounts of the temple for the period from 17.02.1989 till 31.12.2018. There is no necessity to call for the particulars of the Trust during the year 1975 and 1989. The plaintiffs have no locus standi to file the petition. The suit property is a public temple. The petitioners have no personal right over the property. All the documents, which are available with the defendants are already marked. The defendants are not having any other documents. Only with the motive to drag on the case, this petition was filed.



6.The trial Court after considering both the sides, dismissed the petition. Against which, the petitioners have come forward with this petition.

7.On the side of the revision petitioners, it is stated that the Inspector of Hindu Religious and Charitable Endowment Department was examined as P.W.1 and he admits that the original document is with the Department. It is further stated that the list of documents to be called for was annexed with the petition. The trial Court considered the first document as not a necessary document and regarding the second document, there was no proof that this document is available. It is stated that the amendment can be carried out at any time during the pendency of the suit as per Order 11 Rule 14 of CPC. It is stated that already a scheme was framed.

8.On the side of the respondents, it is stated that the first petitioner Trust was not registered under the Trust Act. The property is only a public temple and not a private temple. The burden is upon the plaintiffs. There is no necessity for the defendants to file the petition. There is no stay order. The trial is going on from the year 2017 onwards. The Hindu Religious and Charitable Endowment Department has taken away the property.

9.The case of the plaintiffs is that the first plaintiff temple is a denominational temple and the Government has no authority over the temple. The case of the defendants is that the property belongs to the Government under the control of the Hindu Religious & Charitable Endowment Department. Now in this petition, the petitioner require certain documents from the defendants. The petitioners call for the audit report for the revenue and expenditure accounts for the period from 17.02.1989 till 30.01.2018. The case of the respondents is that already documents are filed along with the written statement and are already marked in the Court and no other documents are available with the respondents.

10.On the side of the respondents, it is stated that the first petitioner is not a Trust registered under the Trust Act. The temple is a public temple. In the year 1989 itself, the Hindu Religious and Charitable Endowments Department has taken over the temple. The defendants side evidence was closed on 12.07.2019 and that only when the suit is in the stage of arguments, irrelevant documents are sought for.

11.The case of the revision petitioner is that some documents are necessary to decide the suit. The document sought for are duty report, etc. The prayer in the suit is to declare the temple as a denominational temple. This fact can be decided on perusing the documents called for. The suit is pending from the year 2017 onwards. Until the stage of arguments, the petitioner has not taken any steps to call for the records. If all the these records are



necessary, the petitioner ought to have called for the document much earlier. They can call for copy of this records under the RTI Act but the petitioners have failed to do anything. How the documents are relevant for deciding the suit was not explained in the petition. The case of the defendants is that the Hindu Religious and Charitable Endowment Department has taken over the temple administration in the year 1989 but the petitioners call for the records relating to appointment of Trustee only from the year 1979 to 1989. When the respondents admit non availability of a document, the petitioners cannot insist upon the respondents to produce a non available document.

12.In the above circumstances, there is nothing sufficient enough to interfere in the order passed in the trial Court. This Civil Revision Petition is dismissed and the order passed in I.A.No.2 of 2019 in O.S.No.170 of 2017 dated 30.10.2019, on the file of the Principal Sub Court, Nagercoil is confirmed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MRN

To

The Principal Sub Judge, Nagercoil.

C.R.P. (MD)No.2148 of 2019

20.05.2020

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