

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2021

Coram

The Hon'ble Mr. Justice C.V.KARTHIKEYAN

C.R.P. (PD) No.38 of 2019
and C.M.P.No.403 of 2019

Muthammal (deceased)

Smt.K.Sivagami

... Petitioner / Plaintiff / 2nd Respondent

Vs

1.The District Collector,
Tiruppur District.

2.The Tasildar, Palladam Taluk,
Tiruppur District.

3.The Assistant Commissioner, HR & CE
Department Tiruppur.

... Respondents / Petitioners / Defendants

4.Varadaraja Perumal Temple
Rep. by Priest Manjapur Palladam Taluk.

... Respondent / 3rd Respondent / 1st Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.406 of 2018 in O.S.No.133 of 2018 on the file of the Subordinate Judge, Palladam dated 05.12.2018 to set aside the same.

For Petitioner : Mr.S.Pon Jeganathan

For Respondents : M/s.Edwin Prabhakar (GA)
for R1 to R3
R4 - Given up.

ORDER

The revision petition has been filed by the second plaintiff questioning the order in I.A.No.406 of 2018 dated 05.12.2018 passed by the learned Subordinate Judge, Palladam.

2. The said Interlocutory Application has been filed by the second, third and fourth defendants in the suit. They had filed the said application seeking to file additional written statement. O.S.No.133 of 2018 had originally been filed by Muthammal (who had since died) against the first defendant / Varadaraja Perumal Temple, represented by its Priest, Manjapur, Palladam Taluk.

3. I do not find any rationale behind a priest of a temple being impleaded as a defendant in the suit. At any time, the said first defendant

had been set exparte. It is now informed that the fit person of the temple had also been impleaded as a defendant.

4. It is the contention of the learned senior counsel on behalf of the petitioner that the said temple does not exist. This makes me wonder how a point can be impleaded as a defendant for a non-existent temple. However, that is an issue to be decided only during the course of trial.

5. Be that as it may, pending the suit, Muthammal died and the petitioner herein, K.Sivagami got impleaded as the second plaintiff basing title on the basis of a Will executed in her favour on 19.06.2015. The 2 to 4 defendants sought to file additional written statement questioning the validity and the genuinity of the Will.

6. It is the contention of the learned senior counsel that strangers to a Will cannot raise any issue surrounding its execution. It is to be kept in mind that the plaintiff seeks possession of a property which is said to belong to the temple and in which, directly or indirectly, the HR and CE Department, Tiruppur and the other defendants namely the District

Collector, Tiruppur also have some interest. They may not have any interest with the execution of the Will but certainly have an interest over the property which is the subject matter of the litigation. The Will is directly related to the said property which is the subject matter of the litigation. Therefore the said defendants have every right to file an additional written statement questioning the validity and the genuinity of the Will.

7. Consequently, pleadings with regard to genuinity and validity of the Will are required for effective adjudication of all issues by the learned trial Judge.

8. In view of all these facts, I do not find any infirmity or irregularity in the order passed by the Court below in I.A.No.406 of 2018 in O.S.No.133 of 2018.

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9. With the above observations, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed. The parties shall go back to the trial Court without

any unnecessary delay since the fact suit has been pending for quite some considerable time.

15.06.2021

Internet: Yes/No

Index: Yes/No

rna

To

- 1.The Subordinate Judge, Palladam.
- 2.The District Collector,
Tiruppur District.
- 3.The Tasildar, Palladam Taluk,
Tiruppur District.
- 4.The Assistant Commissioner, HR & CE
Department Tiruppur.



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C.V.KARTHIKEYAN,J.

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