



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2021

CORAM

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THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.600 of 2021

Arulmigu Ponnambalam Pillayar Swamykovil
Kadakkanavillai, Poochivilagam
Represented by its Trustees

1.Ayyasamy Nadar
2.Kumaraswamy Nadar
Meganathan (died)
V.K.Sathasivam (died)
3.Chandrasekaran

....Petitioners/Petitioners 1,2 & 5/
Petitioners 1,2 &5/Plaintiffs 1,2 & 6

-Vs-

Rathina Swamy (died)

1.S.P.Jegan
2.Ganesan
3.Alagianayagam
4.Murugan
Chellappan (died)
Jenarthanan(died)
5.Anna Sworna Bai
6.Amarnath
7.A.N.Vijayan
8.Paulgani
9.Mohana Bhagyabai

...Respondent/Respondents 2 to 4 & 8 to 12
/Respondents 2 to 4 & 8 to 12
/Defendants 2,3,6,7,12, 14 to 17

Prayer: This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to direct the learned I Additional Subordinate Judge, Nagercoil to expedite and dispose the E.A.No.45 of 2015 in E.P.No.37 of 2012 in O.S.No.186 of 1978 within the time frame stipulated by this Court.

For Petitioner : Mr.M.P.Senthil

O R D E R

This Civil Revision Petition has been filed to direct the learned I Additional Subordinate Judge, Nagercoil to dispose E.A.No.45 of 2015 within a time stipulated by this Court.



2.The learned counsel for the petitioners would submit that the petitioners along with other plaintiffs filed a suit in O.S.No.186 of 1978 on the file of the Principal Sub Court, Nagercoil, seeking to declare that the petitioners are the trustees/beneficiaries of the Arulmighu Ponnambalam Pillaiyarswamy Kovil Trust, Poochivilagam. In the said suit, a preliminary decree was passed on 07.01.2003. In terms of the preliminary decree, a final decree application in I.A.No.102 of 2004 was filed along with a draft scheme. After considering the entire issue, the learned Judge has passed the final decree on 28.09.2007. Based on the final decree, the petitioners filed execution petition in E.P.No.37 of 2012 on the file of the learned Principal Sub Court, Nagercoil seeking for recovery of possession from the 8th and 9th respondents. In this circumstance, the petitioners filed E.A.No.45 of 2015 seeking for appointment of an Advocate Commissioner to conduct the election of the trust by preparing the voters list. The above application has been periodically adjourned for filing counter from 23.03.2016 to 03.11.2017. The grievance of the petitioner is that except E.A.No.45 of 2015, all the applications were disposed of and the above E.A was filed in the year 2015. The suit is of the year 1978 and almost 43 years have lapsed from the year in which the suit has been filed and till date the matter is being prolonged for no justifiable reason. The learned counsel would further submit that the first petitioner is a senior citizen aged about 82 years. The respondents 8 and 9 are intentionally dragging the proceedings for the past 9 years. Hence, the petitioners have come forward with this Civil Revision Petition seeking early disposal of the E.A.No.45 of 2015.

3. Since this Civil Revision Petition is filed for early disposal of the E.A, as no adverse order is going to be passed, notice to the respondents is dispensed with.

4.Considering the facts and circumstances of the case and considering the fact that E.A. is pending for the past 6 years and also considering that the first petitioner is a senior citizen, aged about 82 years, this Court feels that ends of justice would be met by directing the Court below to dispose the E.A. within a time frame. Without adverting to the merits of the case, a direction is issued to the learned I Additional Subordinate Judge, Nagercoil to dispose E.A.No.45 of 2015 in E.P.No.37 of 2012 in O.S.No.186 of 1978 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.



5. With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar ()

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

The I Additional Subordinate Judge
Nagercoil

Copy to:
The Registrar Judicial,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-15265[F] dated 01/04/2021)

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MA (19.05.2021) 3P 4C