



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2021

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P (PD) (MD) No.1426 of 2021

and

C.M.P (MD) No.8027 of 2021

1.P.Karupu @ Karrupaya
2.Su.Ponnusamy
3.V.Mahamani S/o late Velliyan
4.V.Mahamani S/o late Veeramalai
5.S.Ponner
6.M.Mariappan
7.A.Pichaiammal
8.Ka.Karnan
9.C.Ashokkumar
10.P.K.Periyakarpu @ Sivati
11.P.Rajamanikam
12.Mu.Premkumar ... Petitioners/Petitioners/Defendants

Vs.

K.Nagalingam ... Respondent/Respondent/Plaintiff

PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to set aside fair and decreetal order dated 07.04.2021 passed in I.A.No.639 of 2020 in O.S.No.35 of 2020 on the file of the District Munsif, Vadipatti, Madurai.

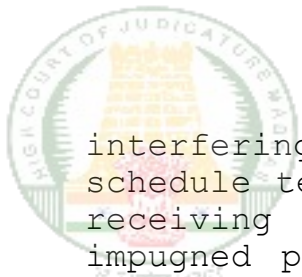
For Petitioners : Mr.C.Deepak
For Respondent : Mr.T.K.Gopalan

ORDER

The defendants are before this Court challenging the dismissal of their application in I.A.No.639 of 2020 in O.S.No.35 of 2020 on the file of the learned District Munsif, Vadipatti, seeking to reject the plaint in O.S.No.35 of 2020.

2.The facts which is the run up to the filing of the above civil revision petition are as follows:-

(i) The respondent herein had filed the suit in O.S.No.35 of 2020 for permanent injunction restraining the defendants from



interfering with his functioning as a hereditary posari of the suit schedule temple. The defendants are worshippers of this temple. On receiving the summons in the above suit, they have filed the impugned petition to reject the plaint on the ground that before invoking jurisdiction of this Court, the respondent ought to have approached the authority under the Hindu Religious Charitable and Endowment Act and since such relief has not been obtained, the suit is not maintainable. The petitioners would further submit that the respondent has not proved that he is the hereditary trustee of the suit schedule temple.

(ii) The plaintiff had filed the counter *inter alia* contending that he has filed the document to show that he is the hereditary trustee of the temple and the suit is not to declare his right as a trustee, but for an injunction restraining the defendants from interfering with his right to act as hereditary trustee.

(iii) The learned District Munsif, Vadipatti, has dismissed the said application stating that the prior permission of the board was not required, since the suit is not filed to declare his right as a trustee, but only for an injunction restraining the defendants from interfering with his right to act as the hereditary trustee, which order that has been challenged in the instant proceedings.

3. Heard the learned counsel appearing on either side and perused the materials placed on record.

4. As stated by the learned District Munsif, the suit in question is not one seeking declaration of any right as hereditary trustee, but is only filed for an injunction against third parties from interfering with his functioning as hereditary trustee. While considering an application for rejecting the plaint, the court is only concerned with the contents of the plaint and not the written statement filed by the defendants or the contents of the affidavit filed in support of the petition seeking to reject the plaint. A reading of the plaint makes out a cause of action and therefore, the order of the learned District Munsif, Vadipatti, dismissing the petition is correct and the same is confirmed.

5. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

cp



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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 District Munsif,
Vadipatti,
Madurai.

C.R.P (PD) (MD) No.1426 of 2021
and
C.M.P (MD) No.8027 of 2021
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MGJ(08.12.2021) 3P 2C