



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.10.2021

Delivered on : 22.12.2021

CORAM:

THE HONOURABLE **MRS.JUSTICE R.THARANI**

WEB COPY

C.R.P. (MD)No.1047 of 2018 (NPD)
and C.M.P. (MD)Nos.4519 & 12334 of 2018

T.Jegan ... Petitioner/3rd party
Vs.
1.Thiyagarajan
2.Rajagopal
3.Chellaswamy
4.Shakthivel ..Respondents 1 to 4/Plaintiffs 1 to 4
5.Kalainagar Hindu Nagar Vagai
Arulmigu Mutharaman,
Santhiyadi Sudalai matrum
Veera Sudalaimada Swamy Thirukoil Trust
Throuhg its Trustee
Rathinasamy, Kalainagar,
Vadiveeswaram Village,
Agatheswaram Taluk,
Kottar PO, Nagercoil.
6.Rathinaswamy
7.Murugan
8.Lingappan
9.Rajagopal .. Respondent 5 to 9/Respondent 1 to 5

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 22.06.2017 made in O.S.No.150 of 2009 on the file of the learned 1st Additional Subordinate Judge, Nagercoil.

For Petitioner : Mr.I.Irulappan

For Respondents : Mr.M.P.Senthil, for R1 to R4

No Appearance for R5 to R9

ORDER

This revision is filed against the order dated 22.06.2017 made in O.S.No.150 of 2009 on the file of I Additional Sub Court, Nagercoil.

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



2. The revision petitioner herein is a third party to the suit. The respondents 1 to 4 herein are the plaintiffs 1 to 4. The respondents 5 to 9 herein are the defendants in the suit.

3. Respondents 1 to 4 herein filed a suit to form a scheme decree and for an order of injunction preventing the first defendant from collecting any amount in the name of the trust and for submitting accounts. A compromise petition in I.A.No.12 of 2016, dated 22.01.2016 was filed and a compromise decree was passed by the trial Court. The petitioner is a third party and he has filed this revision to set aside the compromise decree passed in O.S.No.150 of 2019.

4. On the side of the revision petitioner it is stated that the respondents have no right over the administration of the temple and the management of the trust. They claimed right only through a scheme decree formed by the learned I Additional Subordinate Judge, Nagercoil. The respondents are necessary or proper parties to the suit. The I Additional Sub Judge is not having jurisdiction to pass an order. As per Section 108 of the 'Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)' {in short 'TN HR&CE Act'}, there is a bar of suits in respect of administration or management of religious institutions and the order of the trial Court is to be set aside.

5. On the side of the revision petitioner, it is stated that there is also a specific bar under Section 5 of the TN HR&CE Act for the jurisdiction of the Civil Court to frame a scheme decree.

6. On the side of the respondents, it is stated that a civil suit is maintainable. The petitioner has no jurisdiction to question the decree passed by the civil suit. The respondents 5 to 9 has raised the very same question before the trial Court in I.A.No.204 of 2014 and the petition was dismissed by the trial Court and the petitioner has raised the very same question in this revision, but he has not filed any revision against the order in I.A.No.204 of 2014. The petitioner has filed a petition in I.A.No.53 of 2015 to implead himself and that petition was dismissed for default. A compromise was arrived between the parties. A commissioner was appointed. There is smooth functioning in the trust. Only after the completion of 1 year from the date of decree, the petitioner has approached this Court. The temple is not under the HR&CE Board and it is a family temple that belong to a particular community in the Village. TN HR&CE Department is not having any role in the temple. The petitioner has not obtained leave before the Sub Court under Section 96 C.P.C. to file this revision and without obtaining the same, he has straight away has filed this revision, which is not maintainable.

7. It is seen that writ petitioner is a third party in the



suit. It is stated that he has filed a petition to implead himself as a party and the petition in I.A.No.53 of 2015 was dismissed for default. It is seen that the petitioner has not filed any revision against the order passed in I.A.No.204 of 2014. Further in the revision petition, there is no averment with regard to the involvement of the petitioner in the trust. The Hindu Religious Charitable Endowments Department is not a party in the proceedings.

8. In the above circumstances there is nothing sufficient enough to interfere in the orders of the trial Court. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsm

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

1.The I Additional Sub-Judge, Nagercoil.

2.The Section Officer, (2C)

VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-40195[F] dated 23/12/2021)

C.R.P. (MD) No.1047 of 2018 (NPD)
and C.M.P. (MD) Nos.4519 & 12334 of 2018
22.12.2021

NSN (CO)

KB (04.01.2022) 3P 5C