



C.R.P.(PD) No.570 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 10.03.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.570 of 2022
and CMP.No.3019 of 2022

1.Shree Chandrababhu Maharaj
Juna Jain Mandir Trust (Regd)
Represented by its Secretary
34, Mint Street
Chennai – 600 079.

2.The Dadabadi Sri JinKushalsuriji
JinChndrasuriji Trust (Regd)
Represented by its Managing Trustee
370, Konnur High Road
Ayyanavaram
Chennai – 600 023.

... Petitioners / Plaintiff, 1st defendant

Vs.

J.Rajesh Samdaria

... Respondent / 2nd Defendant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the docket order dated 10.01.2022, passed in O.S.No.14334 of 2010, by the learned VII Additional Judge, City Civil Court, Chennai, by returning the Joint Memo dated 10.01.2022 filed by the



C.R.P.(PD) No.570 of 2022

petitioners herein and consequently, direct the learned VII Additional City Civil Court, Chennai, to take on record the joint memo dated 10.01.2022 in O.S.No.14334 of 2010 and decree the suit as per the terms of the Memorandum of Understanding dated 13.12.2021 between the petitioners.

For Petitioner : Mr.P.Prithvi Chopda [P1]
Mr.D.Ferdinand [P2]

ORDER

The revision is preferred to set aside the order dated 10.01.2022 passed by the learned VII Additional Judge, City Civil Court, returning the joint memo dated 10.01.2022 in O.S.No.14334 of 2010, and to direct him to take on record the said memo, and decree the suit as per the terms of Memorandum of Understanding dated 13.12.2021.

2. The dispute here pertains to who among the rival parties should construct the Jain temple involved in this case. The admitted facts are that the first defendant Trust was managing a track of land plus a Jain Mandir. The temple was old and it was decided to construct a new temple. The plaintiff is a another Trust whose members are also from the Jain community. Difference arose between them as to who should construct the temple, and



C.R.P.(PD) No.570 of 2022

this gave rise to a dispute before the VII Additional Judge, City Civil Court, Chennai in O.S.No.14334/2010 (originally C.S.No.440 of 2007 on the file of this Court). This dispute is now resolved amicably between the parties, and it is resolved that the designing of the temple, obtaining necessary planning permission will be done by one party, and the actual cost of the construction will be incurred by another party. Neither side excludes the other from worshipping in the temple either. It is also decided among them that who among the plaintiff and the first defendant will manage the temple. In other words, the temple is available to worship of all members of Jain community, and only in the matter of managing the temple (not the entire property which is being managed by the first defendant), the parties have arrived at some compromise.

3. The compromise was reduced to writing, and this was presented to the Court along with a memo. The trial Court vide order dated 10.01.2022, has indicated that it is necessary for the parties to obtain leave of the Court under Order XXIII Rule 3(B) of CPC. This is now under challenge in this revision.



C.R.P.(PD) No.570 of 2022

4. This Court carefully perused the pleadings and also the compromise now arrived at. Nowhere it is seen that the character of the property is intended to be changed, nor any restriction is imposed on the devotees who may offer prayers in the temple. It appears to be a convenient internal arrangement between the parties as to who should construct the temple and how the temple must be managed and no more. Therefore, this Court does not consider that a leave under Order XXIII Rule 3(B) CPC is required.

5. With the above observations, this revision is allowed and the order dated 10.01.2022 passed by the learned VII Additional Judge, City Civil Court is set aside. Now, the counsel for the parties are required to present the compromise / MoU before the trial Court along with their parties to enable the trial Court to pass a decree in terms thereof. No costs. Consequently, connected miscellaneous petition is closed.

10.03.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

ds

Note : Issue order copy on 11.03.2022



WEB COPY



C.R.P.(PD) No.570 of 2022

N.SESHASAYEE.J.,

ds

C.R.P.(PD) No.570 of 2022

10.03.2022