



C.R.P.No.1251 of 2020
and C.M.P.No.6788 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2022

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

C.R.P.No.1251 of 2020

and

C.M.P.No.6788 of 2020

1.A/m. Selva Vinayagar and
A/m. Mahaliamman Thirukovilkal Trust
Chenniyavalasu,
rep. by its President C.Venkatachalam
No.136, Chenniyavalasu,
Perundurai Taluk, Erode District.

2.C.Venkatachalam

3.K.Palanisamy

... Petitioners

Vs.

1.The State of Tamilnadu rep. by
The District Collector,
Erode District.

2.The Commissioner,
Hindu Religious Charitable and
Endowments Department,
Nungambakkam, Chennai.



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3.The Joint Commissioner,
Hindu Religious Charitable and
Endowments Department, Erode.

4.The Executive Officer,
A/m.Subramaniasamy Thirukovil,
Chennimalai, Perundurai Taluk,
Erode District.

5.Sivachalam
6.Gunasekaran
7.C.Palanisamy
8.M.Senthil
9.R.Balasubramani
10.P.Subramani
11.C.Arumugam
12.N.Ayyasamy
13.Somasundaram

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the
Constitution of India against the fair and decreetal orders dated
06.07.2019 passed in I.A.No.2 of 2019 in O.S.No.26 of 2014 on the file
of the Sub Court, Perundurai.

For Petitioners	: Mr.N.Manoharan
For RR1 to 3	: Mr.P.Harish, GA
For R4	: No appearance
R5,R6,R8 to R11 & R13	: Names printed - No appearance
For R12	: Mr.R.Jayaprakash



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ORDER

This petition has been filed challenging the fair and decreetal orders dated 06.07.2019 passed in I.A.No.2 of 2019 in O.S.No.26 of 2014 on the file of the Sub Court, Perundurai.

2.The revision petitioners are the plaintiffs in O.S.No.26 of 2014 on the file of the Sub Court, Perundurai, Erode District. They filed the suit for a declaration that the first plaintiff temple, namely, Arulmigu Selva Vinayagar and Arulmigu Mahaliamman Thirukovil Trust, is a denominated temple belonging to Kongu Vellalar, Nadar, Boyar Community people of Chenniyavalasu Village and for a permanent injunction restraining the defendants 1 to 11 from interfering or obstructing with the plaintiffs' right to administer the first plaintiff temple. The first defendant is the District Collector, Erode District, representing the State of Tamilnadu and the defendants 2 to 4 are the Commissioner, the Joint Commissioner and Executive Officer of Hindu Religious Charitable and Endowments (HR & CE) Department, respectively, while the defendants 5 to 12 are private parties.



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3. The defendants filed a written statement and both the parties went for trial. During the pendency of the suit, the plaintiffs filed an application in I.A.No.2 of 2019 in the suit under Order I Rule 10 (2) and Section 151 CPC to implead one Somasundaram as the 13th defendant in the suit. In the affidavit filed in support of the application, the revision petitioners/plaintiffs had contended that the 13th defendant was appointed as a permanent poojari of the temple and that he is also acting against the interest of the first plaintiff temple and therefore, he should be impleaded as a party to the suit. The proposed respondent, namely Somasundaram, remained absent in the said application and he was therefore, set *ex parte*. The respondents 4 and 12 filed their respective counters and the other respondents did not file their counter. After contest, the learned Subordinate Judge, Perundurai, dismissed the application in I.A.No.2 of 2019 vide his orders dated 06.07.2019, aggrieved over which, the present Civil Revision Petition is filed by the plaintiffs.

4. Heard Mr.N.Manoharan, learned counsel for the revision petitioners, Mr.P.Harish, learned Government Advocate for the



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respondents 1 to 3 and Mr.R.Jayaprakash, learned counsel for the twelfth respondent.

5. Mr.N.Manoharan, learned counsel for the revision petitioners would contend that when it is specifically contended by the plaintiffs that the proposed respondent is acting against the interest of the first plaintiff temple, he should be added as a party. His further contention is that he was appointed as a permanent poojari in the temple by the plaintiffs and he has now joined hands with the defendants including HR & CE Department and is obstructing the day to day activities of the temple.

6. Per contra Mr.P.Harish, learned Government Advocate for the respondents 1 to 3 would contend that the first plaintiff temple is under the control of HR & CE department and that the proposed respondent has been appointed as a poojari only by the HR & CE department. According to him, the plaintiffs filed a petition to examine the proposed respondent as a witness on their side and the same was allowed by the trial Court also. He would therefore contend that the proposed respondent is neither a proper nor a necessary party to the suit



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and the present application has been filed only to protract the proceedings in the suit in O.S.No.26 of 2014.

7. The learned trial Court Judge dismissed the application on the ground that the proposed respondent can be examined only as a witness on the side of the plaintiffs and he cannot be permitted to be impleaded as a party to the suit especially when no relief is sought for against him.

8. The object of Order I Rule 10 (2) CPC is to bring before the Court all the persons at the same time who are all involved in the dispute relating to the subject matter so that the disputes would be determined at the same time without any delay. It is settled law that a necessary party is a person who ought to have been joined as a party and in whose absence no effective decree would be passed by the Court. If a necessary party is not impleaded, the suit itself is liable to be dismissed. A proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceedings.



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9. A perusal of the plaint shows that the plaintiffs have mainly claimed that the first plaintiff temple is a denominated temple and that the HR & CE department cannot interfere with their (plaintiffs) administration over the temple. In the instant petition, the plaintiffs want to implead the poojari of the temple and according to the plaintiffs he is a permanent poojari appointed by them. Absolutely, no documentary evidence has been adduced by the plaintiffs in this regard especially when the HR & CE department had contended that the proposed party has been appointed as a poojari only by them and that he is under their control.

10. It is also pertinent to point out that the plaintiffs had already filed a petition to examine the proposed party as a witness on their side and the said petition was also allowed by the trial Court. Merely because the plaintiff is a *dominus litus*, he cannot be permitted to add any person as a party to the suit unless he is a proper and necessary party. The burden of proof is cast on the plaintiff to grant him a declaratory decree that the first plaintiff temple is a denominated temple.



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He has to adduce acceptable oral and documentary evidence to substantiate the same. The proposed party who is only a poojari of the temple can be said to be neither a proper nor a necessary party to the suit filed by the plaintiffs.

11. In the circumstances, I do not find any infirmity in the orders passed by the trial court and accordingly the Civil Revision Petition is liable to be dismissed.

12. In the result,

- i. the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.
- ii. The fair and decreetal orders dated 06.07.2019 passed in I.A.No.2 of 2019 in O.S.No.26 of 2014 on the file of the Sub Court, Perundurai, is upheld.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga



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To

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- 2.The District Collector,
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- 3.The Commissioner,
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Endowments Department,
Nungambakkam, Chennai.
- 4.The Joint Commissioner,
Hindu Religious Charitable and
Endowments Department, Erode.
- 5.The Executive Officer,
A/m.Subramaniasamy Thirukovil,
Chennimalai, Perundurai Taluk, Erode District.
- 6.The Section Officer, VR Section, High Court, Madras.



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R. HEMALATHA, J.
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