



C.M.P.No.14172 of 2021

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in
S.A.No.1140 of 2013
&
W.P.No.16017 of 2020

P.T.Asha, J.

The above petition is filed by a third party to implead himself as the 7th respondent in the Second Appeal. In the affidavit filed in support of the said petition, the petitioner would put forward the following reasons to have himself impleaded as the 7th respondent in the above proceedings:

(a)The administration of the temple unofficially taken over by some Balija community members.

(b)In the year 2004, the trustees had demolished the Temple's Gopuram and the petitioner had filed W.P.No.20353 of 2005 before this Court. The Writ was ordered with a direction to the 4th respondent herein to consider the petitioner's representation. An enquiry has also been completed.



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(c) Huge amounts of money are being collected in the name of the construction of Rajagopuram, construction of Chariot etc., but the money collected was utilised for personal gains and not used for the purpose for which it is collected.

(d) The trustees had demolished the old Hanuman Temple which had an old Kalasam with artistic importance and small Gopuram.

(e) The temple owns several properties gifted by devotees over 100 years and the trustees have allowed third parties to take possession of the same. In fact, 81 acres in Manapakkam village was permitted to taken over by land grabbers for the personal gains of the trustees.

(f) Ten shops were constructed around the temple without proper sanction, thereby wasting temple's money.

(g) Huge amounts were collected for letting out the shops.

(h) The Trustee of the temple one Mr.A.V.Rajan has himself filed a Writ for investigating the missing gold



C.M.P.No.14172 of 2021

ornaments and silver articles of the temple in W.P.No.27388

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(i) Audit and contribution fee payable to the 4th respondent has not been paid.

Therefore, for the above reasons, the petitioner would seek to have himself impleaded as the 7th respondent in the above Second Appeal.

2. The counter has been filed by the respondents 3 to 5 and 7 to 10 inter alia denying the various allegations contained in the petition. The 4th respondent who has filed the counter on behalf of the others had stated that the suit had been originally filed by one Manavala Chetty before the Original Side of this Court in C.S.No.153 of 1990, which was later transferred to the file of the V Assistant City Civil Court, Chennai and re-numbered as O.S.No.8692 of 1997. The suit was filed for a declaration that the temple is a religious denomination institution founded and managed exclusively by the members of the Baliya community residing in and around Mettupalayam, for permanent injunction restraining defendants including the State of Tamil Nadu, the Commissioner HR &



C.M.P.No.14172 of 2021

CE from in any manner interfering with the administration and management of the temple by the members of the community, for mandatory injunction directing the defendants in the suit to handover the administration and the management of the temple and its properties to the members of the community represented by the trustees.

3. The suit has been decreed as prayed for, against which the appellant herein had filed A.S.No.237 of 2005 on the file of the V Additional City Civil Court, Chennai. The appeal has been dismissed and the Judgement of the Trial Court has been confirmed.

4. The respondents would submit that the Trial Court on considering the evidence on record both oral as well as documentary had proceeded to hold that the temple belonged to the members of the Baliya community and declared the same to be the religious denomination temple. The relief of injunction was also granted as prayed for. The respondents 1 and 2 who have preferred an appeal had not obtained any interim orders. The Trustees who have now been elected have ensured that the Agama



C.M.P.No.14172 of 2021

Shastras are followed, functions for his holiness Ramanuja was carried out, apart from which the community people performed various Utsavas based on the preachings of Sri Ramanuja and Manavala Mamunigal. The respondents would further submit that the petitioner is not a necessary party to the proceedings.

5. The 6th respondent had filed a counter inter alia denying the various allegations contained in the petition and submitted that the temple is protected under Article 26 of the Constitution of India and therefore HR & CE Department has not justified in interfering with its administration and management. The petitioner is none else than an interloper and the person who resorts to litigation to blackmail people. The petitioner has undertaken the same exercise in the case of Thiruneemalai Perumal Temple, Sholinghur Narasimhar Temple and Kodantharama Temple, West mambalam.

6. The 6th respondent would further submit that the petitioner has approached the trustees with a request to appoint him as a trustee, for



C.M.P.No.14172 of 2021

which the trustees had stated that it could not be done since the petitioner was not a resident of Mettu Palayam. The Trustees are appointed by the Balija Kula Devasthanam Dharma Paripalana Sabha. The demolition of Rajagopuram and the Hanuman temple was denied. Further, the allegations that the lands in Manapakkam had been taken over by land grabbers was absolutely false since the lands are in control of Temple.

7. The petitioner has filed a re-joinder in which apart from reiterating the contents of the earlier affidavit has denied the contentions of the respondents 3 to 5 and 7 to 10. He would submit that he is only a devotee of the temple and there is never an attempt to enter into the management of the temple. His interest is only for a fair administration of the temple by the community members. He would reiterate that respondents 4 to 10 had forcibly taken the administration of the temple.

8. The petitioner would also bring out a new argument that the declaration as a denomination temple is only for the community and not for the temple, which is an argument which has not been raised by any of



the contesting defendants. The two Courts have declared the temple to be religious denomination institution managed exclusively by the members of the Balija community residing in and around Mettu Palayam. Ultimately, in the re-joinder the petitioner has sought direction to respondents 1 and 2 to take action against respondents 4 to 10 for the proper administration of the 3rd respondent temple based on his representation dated 30.09.2020.

9. Heard the learned counsels and perused the records.

10. The above petition has been filed by the petitioner invoking the provisions of Order I Rule 10 of the Code of Civil Procedure. Order I Rule 10 (2) contemplates striking out or adding of parties. A person can be added as a party to the suit in two contingencies:

(a) Where he ought to be joined as a party, namely, plaintiff or defendant and he has not been so joined.

(b) When without his presence the questions in the suit cannot be completely adjudicated upon.



11. The power to implead a person does not depend solely upon the question whether the person has an interest in the suit property but whether he has an enforceable right which if he has not so impleaded would be affected vide **(2005 (11) SCC 403 – Amit Kumar Shaw and others Vs. Farida Khatoon and others)**.

12. Viewed from this perspective, the petitioner is neither a necessary nor a proper party and his non impleadment does not in any way affect the adjudication of the suit. Further, the temple is represented by its elected body, namely, the trustees who have been arrayed as respondents 4 to 10. The suit has been decreed and the appeal filed by the respondent had been dismissed. That apart, the petitioner who now seeks to be impleaded has not made out any compelling reasons to have him impleaded as a party to the appeal.

13. In an appeal relating to the another temple also belonging to the community called the Sri Prasana Venkata Narasimha Perumal Temple, in O.S.A.Nos.76 & 77 of 2021, the division bench of this Court was



C.M.P.No.14172 of 2021

considering a petition seeking leave to sue under Section 92 of the CPC for framing scheme for better administration of the subject temple. The bench in this petition had directed an enquiry by the Joint Commissioner of HR & CE department or an Officer in the status of the Commissioner in respect of the said Sri Prasanna Venkata Narashimha Perumal Temple, Saidapet. However, the Bench directed an enquiry in respect of the 4th defendant temple as well without the 4th defendant being a party to the said proceedings.

14. The said order was challenged before the Hon'ble Supreme Court and by order dated 25.03.2021 the permission to file SLP was granted and the order of the Division Bench in so far it related to the 4th defendant was stayed.

15. The petitioner had filed W.P.No.20353 of 2005 alleging mismanagement, this Court had directed the Commissioner, HR & CE to consider the representation of the petitioner herein and after giving an opportunity to the parties to dispose of the same. The Government Pleader



C.M.P.No.14172 of 2021

appearing for the HR & CE would submit that enquiry has been concluded and it was found that the allegations made by the petitioner were not proved. Therefore, the representation was disposed of. There is no challenge to the same.

16. However, the petitioner without challenging the order has come forward with W.P.No.16017 of 2020 for the very same reasons and the same is pending. The reasons for seeking to implead himself as a party is also based on the very same allegations as contained in these Writ Petitions.

17. The learned counsel for the Executive Officer appointed for the temple by the HR & CE would draw the attention of this Court to the Judgement reported in *1996 1 LW 231 – Sri Madhavaperumal Devasthanam, Mylapore Vs. Dhanalakshmi and others*, wherein the learned Judge has observed that since the Idol is in the position of a minor the court should step in to protect the interest of the Idol in any litigation. He would therefore submit that the impleadment of the petitioner is a step-



C.M.P.No.14172 of 2021

in-aid for protecting the interest of the idol. This argument appears to be absolutely misdirected since the Idol is not only represented by the Executive Officer but is adequately represented by the trustees who have been elected by the general body of the community and they are the best persons for protecting the interest of the temple as also the idol.

18. In view of the above and considering the fact that the suit is one for declaration and injunction filed against the board, the temples and the trustees, the petitioner is neither a necessary nor proper party to the lis, consequently the above petition is dismissed.

19. Post the main case on 21.01.2023.

21.12.2022

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C.M.P.No.14172 of 2021

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C.M.P.No.14172 of 2021

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