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CRP (PD) No. 3023 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No. 3023 of 2021

and

CMP No. 21441 of 2021

Mr.A.Shanmughan

... Petitioner/5th Defendant/Petitioner

Vs

1.Mr.V.Bhaskaran
2.Mr.A.R.Ramachandran
3.Mr.A.R.Dharmarajan
4.Mr.V.K.Vijayan
5.Mr.Krishnan Kutty
6.Mr.Sadhanandhan Chetty
7.Mr. Venugopalan

... Respondents/Plaintiffs/Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the Judgment dated 20.11.2021 made in I.A.No. 1 of 2021 in O.S.No. 19 of 2018 on the file of Subordinate Judge, Gudalur, The Nilgiris.

For Petitioner : Mr. B.Ramamoorthy



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For Respondents : Mr. J.Franklin

ORDER

Challenge in this Revision is to the order of the trial Court dismissing an application filed under Order 7 Rule 11 of the Code of Civil Procedure, seeking rejection of the plaint in O.S.No. 19 of 2018.

2. The said suit was filed by the respondents herein seeking a permanent injunction restraining the defendants from managing the income, movable and immovable properties of “Valat Maha Vishnu Temple”, Ambalamoola Post, Munnanad Village, Pandalur Taluk and for framing of a scheme for administration of the temple and its properties.

3. The plaintiffs, 7 in number, filed the suit for the above reliefs as representatives of the devotees of Lord Valat Maha Vishnu, the presiding deity at the temple. They sought leave under Section 92 of the Code of Civil Procedure and such leave was granted by Sub Court in I.A.No. 35 of 2017 on 19.01.2018. The order of granting leave was challenged before this Court in C.R.P.(PD).No. 1252 of 2018. The said Revision was dismissed on



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10.04.2018.

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4. The defendants filed an application in I.A.No. 2 of 2021 seeking rejection of the plaint under Order 7 Rule 11(a) of the Code of Civil Procedure on the ground that the suit does not disclose cause of action.

5. In the plaint, the plaintiffs have stated that there has been a mismanagement of the affairs of the trust and the properties of the temple. In deciding whether the suit disclose a cause of action or not the allegations in the plaint alone must be looked into and the Court shall not look in to the written statement or evidence. On a close reading of the plaint, the learned Subordinate Judge concluded that the plaint discloses cause of action. He also found that once the Court had granted leave for institution of the suit under Section 92 of the Code of Civil Procedure, it cannot be argued that the plaint does not disclose cause of action and the question of rejection of plaint filed under Section 92 of the Code after obtaining leave does not arise.

6. Mr.B.Ramamoorthy, learned counsel appearing for the



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petitioner would vehemently contend that the very cause of action is based on a clandestine act of the plaintiffs. He would draw my attention to paragraph No. 14 of the plaint wherein it is stated that the fact that there has been a mismanagement of the assets and manipulation in the accounts of the temple came to the knowledge of the plaintiffs 2 and 3 unexpectedly in the clandestine method on 23.09.2017.

7. I do not think this could be taken on the face of it and I am clear opinion that it is just wrong usage of the word 'clandestine'. Having examined the order of the Trial Court, I do not find any reason to interfere with the same as the trial Court had given cogent reasons for dismissing the application under Order 7 Rule 11 of the Code.

9. I do not see any merits in this Revision and hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.01.2022

vsg
Index: Yes/No

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Speaking order / Non speaking order

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To:

1. Subordinate Court, Gudalur
Nilgiris.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.

R.SUBRAMANIAN, J.

Vsg

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