



CRP.(PD)No. 1906 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.(PD).No. 1906 of 2017

and

CMP.Nos. 9205 9206 & 14804 of 2017

The Executive Officer
Arulmighu Thiruvaleeswarar Thirukoil
Padi, Chennai - 600 050.

.. Petitioner

Versus

1. G.N. Pandian
2. The Commissioner
H.R. & C.E. Department
Nungambakkam
Chennai - 600 034.
3. The Joint Commissioner
H.R. & C.E. Department
Nungambakkam
Chennai - 600 034.
4. The Asst. Commissioner
H.R. & C.E. Department
Nungambakkam
Chennai - 600 034.

...Respondents



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WEB COPY Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No. 125 of 2017 on the file of District Munsiff Court, Ambattur.

For Petitioner : Mr. S. Surya
For M/s. A.S.Kailasam & Associates

For R1 : Mr. S. Thangasivan
For R2 to R4 : Mr.B. Tamil Nidhi
Additional Government Pleader

ORDER

This Civil Revision Petition has been filed seeking to strike off the plaint in O.S.No.125 of 2017 on the file of District Munsiff Court, Ambattur.

2. The revision petitioner herein is the 4th defendant in the said suit and the first respondent herein is the plaintiff in the original suit proceedings.



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3. The learned counsel appearing for the revision petitioner/4th defendant submitted that the suit itself is not maintainable, either in law or on facts, and if at all, the first respondent/plaintiff can only challenge the order passed by the Competent Authority only before the appropriate forum. Since the plaintiff has already preferred a revision before the appropriate forum invoking Section 114 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, (Appellate Remedy) and he prays to strike off the plaint.

4. Heard both sides and perused the records.

5. On a perusal of the records, it is seen that the first respondent/plaintiff filed the suit in O.S.No.125 of 2017 before the learned District Munsif, Ambattur, for the relief of declaration, that the order dated 25.05.2017 in Ref.Rc.No.12477/2017/R.2 passed by the 1st defendant/HR&CE Commissioner as illegal, void and non-est and permanent injunction restraining the defendants 1 to 4 from interfering with the plaintiff's peaceful possession and enjoyment of the suit



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schedule property in view of the order passed by the first defendant, dated 25.05.2017 in Ref.Rc.No.12477/2017/R.2 in any manner whatsoever and the same is pending before the trial Court. In the meanwhile, the revision petitioner/4th defendant filed this revision petition before this Court seeking to strike off the plaint.

6. Today, when the case is taken up for hearing, learned counsel appearing for the revision petitioner/4th defendant contended that the first respondent/plaintiff has already moved the Government by way of revision challenging the order passed by the Tamil Nadu Hindu Religious and Charitable Endowments Department [HR&CE], but the said revision was not yet numbered.

7. In reply, the above fact was strongly objected to by the learned counsel for the first respondent/plaintiff. So far, no notice was served on the plaintiff.



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8. Taking into the aforesaid facts and circumstances of the case, the first respondent/plaintiff, having chosen the right forum, the present plaint is an abuse of process of law. Hence, this Court is inclined to allow this revision.

9. Accordingly, the Civil Revision Petition is allowed. However, liberty is granted to the first respondent/plaintiff to prefer an appeal before the Competent Authority under Section 114 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, [HR & CE] in the manner known to law. Consequently, suit is ordered to be strike off. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

18.10.2022

msm

To

1. The District Munsiff, Ambattur.
2. The Section Officer, V.R.Section
High Court, Madras.



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T.V.THAMILSELVI, J.

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