



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.239 of 2017

Arulmigu Vinayagar Mariamman,
Pidariamman @ Mariamman,
Ayyanar and Kumbaperumal Temples,
situated at Unathur Village,
Athur Taluk, Salem District,
rep.by its Welfare Sangam President,
Palanimuthu

... Petitioner

Vs

The Fit Person,
Executive Officer,
Arulmighu Murugan Temple,
Vada Chennimalai,
Athur Taluk, Salem District.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 25.02.2016 made in CMA.No.4 of 2015 on the file of the Learned Subordinate Judge, Athur and confirming the fair and decretal order passed by the District Munsif, Attur passed in IA.No.714 of 2015 in O.S.No.130 of 2015 dated 29.07.2015.

For Petitioner

..

Ms.S.Sasikala

For Respondent

..

Dr.S.Suriya,
Additional Govt. Pleader

**ORDER****WEB COPY**

The Civil Revision Petition has been filed questioning, the order of dismissal dated 25.02.2016 in CMA No.4 of 2015 passed by the learned Sub Judge, Attur, which Civil Miscellaneous Appeal had been filed in O.S.No.130 of 2015 which is now pending before the District Munsif Court, Attur.

2.The plaintiff in the said suit is the revision petitioner herein. The suit in O.S.No.130 of 2015 had been filed by the plaintiff who have termed themselves as Arulmigu Vinayagar Mariamman, Pidariamman @ Mariamman, Ayyanar and Kumbaperumal Temples situated at Unathur Village, Athur Taluk, Salem District, but as a matter of fact, the plaintiff is not the temple, but a Welfare Sangam represented by its President, Palanimuthu. The right of the Welfare Sangam to control and administer the temples, is the subject matter of the suit. The defendant is the fit person / Executive Officer of Arulmighu Murugan Temple, Vada Chennimalai, Athur Taluk, Salem District.

3.Once, the Hindu Religious and Charitable Endowments by virtue of the Hindu Religious and Charitable Endowments Act, 1959 had appointed a fit person / Executive Officer to administer the temples over which the aforementioned Sangam claims right, naturally the conflicts



will arise with respect to the administration and interference with administration. The Welfare Sangam claims to be registered. But so long as the temples come under the administration of the HR and CE, then only in co-operation with the HR and CE can festivals be conducted.

4.The relief sought in the suit was for permanent injunction restraining the aforesaid defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit temples.

5.The plaintiff can seek a right not to interfere with their administration, but they cannot seek an injunction restraining peaceful possession. The temples are a common place where everybody can enter in for worship and perform pooja. There cannot be an injunction relating to possession of any temple.

6.Be that as it may, IA No.714 of 2015 had been filed by the plaintiff seeking interim injunction. That was dismissed by the learned District Munsif, Attur by order dated 29.07.2015. Questioning that order, the petitioner herein had filed CMA No.4 of 2015. That was also dismissed by the learned Sub Judge, Attur by order dated 25.02.2016. Questioning that particular dismissal, the present Civil Revision Petition had been filed.



7.Let me not enter into any detailed discussion on the facts, but rather revert the petitioner / plaintiff, back to the trial Court to establish their case during the course of trial with respect to the alleged right which the Welfare Sangam claims for exclusive possession of the particular temples. That is an issue for trial and interlocutory application of this nature can never be adjudicated without documents and oral evidence.

8.With the above observations, the Civil Revision Petition is dismissed. The parties are directed to go back to the trial Court to commence trial by adducing evidence. Since the suit is of the year 2015, the learned District Munsif, Attur may bestow his attention to dispose of the suit and endeavour to dispose of the same on or before 31.03.2023. No order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

21.02.2022

Internet:Yes/No

Index:Yes/No

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To

The Sub Court, Attur.



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C.V.KARTHIKEYAN, J.

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