



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.11.2021
PRONOUNCED ON : 28.04.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.165 of 2009 and
M.P.(MD)No.1 of 2009

Kumarasamy Bhatler ... Appellant / 1st Respondent /
Plaintiff

Vs.

1.Arulmighu Sri Subramaniaswamy Devasthanam,
Through its Executive Officer /
Joint Commissioner,
Tiruchendur. ... 1st Respondent / Appellant /
1st Defendant

2. Shanmuga Bhatler ... 2nd Respondent / 2nd Respondent /
2nd Defendant

3.S.Santhosh Kumar ... 3rd Respondent

(R-3 was impleaded vide Order dated 29.10.2021
in C.M.P.(MD)No.8881 of 2021)

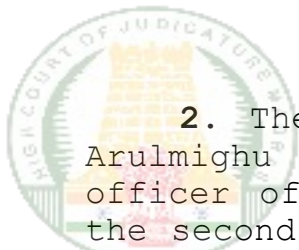
Prayer: Second appeal filed under Section 100 of C.P.C., against the Judgment and Decree passed in A.S.No.159 of 2003 on the file of the learned Additional District Judge (Fast Track Court No.I), Thoothukudi, dated 04.11.2008 reversing the judgment and decree passed in O.S.No.400 of 1995 on the file of the Subordinate Judge, Thoothukudi, dated 21.07.2003.

For Appellant : Mr.S.Partha Sarathy,
for Mr.M.P.Senthil.
For R-1 : Mr.S.Madhavan
For R-3 : Mr.D.Venkatesh
For R-2 : No appearance.

* * *

J U D G M E N T

The plaintiff in O.S.No.400 of 1995 on the file of the Sub Court, Thoothukudi, is the appellant in this second appeal.



2. The plaintiff is one of the Archagars conducting pooja in Arulmighu Sri Subramaniaswamy temple, Thiruchendur. The executive officer of the temple passed an order dated 18.10.1993 permitting the second defendant Shanmuga Battar to perform pooja murai of Late Ramasamy Pattar on two particular dates. Seeking declaration that the said order is invalid and for permanent injunction, the suit was instituted. Written statement was filed by both the defendants. Based on the divergent pleadings, issues were framed. The appellant examined himself as P.W.1 and two other witnesses were examined on his side. Ex.A.1 to Ex.A.7 were marked. The second defendant examined himself as D.W.2 and one other witness was examined. No evidence was adduced on the side of the defendants. After considering the evidence on record, the trial Court by judgment and decree dated 21.07.2003 decreed the suit as prayed for. Challenging the same, the executive officer of the temple filed A.S.No.159 of 2003 before the Additional District Judge, Thoothukudi. The second defendant also independently filed A.S.No.991 of 2003 before this Court. A compromise was arrived at between the appellant herein and Shanmuga Battar. Shanmuga Battar withdrew the appeal filed by him. However, the appeal filed by the executive officer was allowed and the decision of the trial Court was reversed by the first appellate Court vide judgment and decree dated 04.11.2008. Challenging the same, this second appeal came to be filed.

3. After hearing the learned counsel appearing for the appellant and the learned Standing counsel appearing for the temple, I am of the view that the decision of the trial Court may not call for any interference as such. The first appellate Court invoking Section 108 of The Tamil Nadu Hindu Religious and Charitable Endowments Act had non-suited the appellant. Section 108 of the Act is as follows:-

Bar of suits in respect of administration or management of religious institutions, etc.-

No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act.

It obviously means that the appellant has a right to move the competent authority under Section 63(e) of the Act. The Joint Commissioner, Hindu Religious and Charitable Endowments Department, Tuticorin, is the authority competent to go into the issue raised by the appellant under Section 63(e) of the Act. The appellant is given liberty to file an application. As and when such an application is filed, the same will be numbered and taken on file and enquired into. Since the appellant is presently discharging the function of an Archagar in the temple, the status quo will continue.



4. This second appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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// True Copy //

Sd/-

Assistant Registrar (CS-III)

/ /2022

Sub Assistant Registrar(CS)

PMU

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Additional District Judge
(Fast Track Court No.I),
Thoothukudi.
2. The Subordinate Judge,
Thoothukudi.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-22656[F] dated 29/04/2022)
S.A.(MD)No.165 of 2009
28.04.2022

CK (CO)

GC(07.06.2022) 3P 6C