



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Wednesday, the Eighteenth day of November Two Thousand and Twenty

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PRESENT

The Hon'ble Mr. Justice R. MAHADEVAN

SA(MD). No.433 of 2020

D. SRINIVASAN ...Appellant/Appellant/1st Defendant

Vs

1 S. Kannigadevii ...1st Respondent/Appellant/Plaintiff
2 Vaijayanthimala ...2nd Respondent/2nd Respondent/2nd Defendant
3 The Commissioner,
Tiruchirappalli City Corporation,
Tiruchirappalli ...3rd Respondent/3rd Respondent/3rd Defendant

Prayer in SA(MD). No.433 of 2020 :

Second Appeal is filed under section 100 of Civil Procedure Code, praying this Hon'ble Court against the Judgement and Decree passed by the Learned First Additional Subordinate Judge, Tiruchirappalli in A.S.No.55 of 2018 dated 06-11-2019 confirming the Judgement and Decree of Learned Principal District Munsif, Tiruchirappalli in O.S.No.913 of 2012 dated 22-01-2018.

ORDER:- Second Appeal coming on for hearing on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.M.Ashok Kumar, Advocate for the Appellant and of Mr.Arun Jayatram, Advocate for the 1st Respondent, this Court made the following order:

The first respondent / plaintiff filed the suit in O.S.No.913 of 2012 on the file of the learned Principal District Munsif, Tiruchirappalli, seeking for the relief of mandatory and permanent injunction and the suit was partly decreed in favour of the first respondent / plaintiff, vide judgment and decree dated 22.01.2018. Aggrieved by the same, the first defendant / appellant filed A.S.No.55 of 2018 on the file of the learned I Additional Subordinate Judge, Tiruchirappalli. The first appellate Court vide judgment and decree dated 06.11.2019 confirmed the judgment and decree passed by the trial Court and hence, this Second Appeal.

2. The learned counsel appearing for the appellant / first defendant submitted that the dispute is with regard to the <https://hcservicescourts.gov.in/hcservices> made over the Periyandavar Temple at Trichy and he



further submits that being the co-owner of the property in question, the first respondent/plaintiff is not entitled to seek an order of injunction. However, the Courts below, without considering the case of the other co-owners, partly decreed the suit in favour of the first respondent / plaintiff.

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3. I have considered the submissions made on either side and perused the materials placed before this Court.

4. Both the parties levelled allegations to the extent that the respective constructions by them have been made over the Periyandavar Temple at Trichy. The specific allegation against the first respondent / plaintiff is that she has put up constructions illegally over the terrace of the Temple. In such view of the matter, this Court finds it appropriate to appoint an Advocate Commissioner, so as to inspect and file a report before this Court for passing further orders.

5. Accordingly, **Mr.R.J.Karthick, Advocate, D.No.5/155, Plot No.101, 2nd Street, Kasim Residency, Opp to High Court, (Near Hotel-Amman), Y.Othakadai, Madurai - 625 107 [Enrollment No.1367/2004, Cell No.94436 20118, E.Mail - law_jk@yahoo.com]**, is appointed as an Advocate Commissioner to visit and find out as to whether any construction is made within the campus of the temple in question and if so, the extent of encroachment made.

6. The Advocate Commissioner shall inspect the suit property with the assistance of Local Surveyor and the Village Administrative Officer as well as the Executive Officer of the Periyandavar Temple, Trichy, after issuing notice to all the parties concerned and their respective counsel by fixing the date and time of inspection of the suit property, on or before **30.11.2020**. The Advocate Commissioner shall be paid a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only), towards his remuneration, by the appellant and the first respondent equally.

7. The Advocate Commissioner, after noting down the physical features of the suit property, shall file his report along with a sketch before this Court on or before **04.12.2020**.

8. Post the matter on **04.12.2020**.

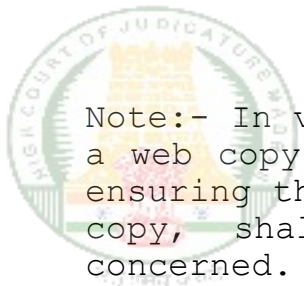
Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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.

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To

- 1 The First Additional Subordinate Judge,
Tiruchirappalli.
- 2 The Principal District Munsif, Tiruchirappalli.
- 3 The Commissioner,
Tiruchirappalli City Corporation,
Tiruchirappalli

Copy to

Mr.R.J.KARTHICK, Advocate, D.No.5/155, Plot No.101,
2nd Street, Kasim Residency, Opp to High Court,
(Near Hotel Amman), Y.Othakkadai, Madurai - 625 107.
(Enrollment No.1367 of 2004, Mobile No.94436 20118,
E.Mail - law_jk@yahoo.com)

(The Advocate Commissioner shall serve the copy of this order to the Surveyor and the Village Administrative Officer as well as the Executive Officer of the Periyandavar Temple, at Trichy for compliance.)

S.A(MD) No.433 of 2020
and C.M.P. (MD) No.5118 of 2020
18.11.2020

VB (24.11.2020) 3P 5C