



C.R.P (MD) No.1407 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

C.R.P (MD) No.1407 of 2022

and

C.M.P (MD) No.5828 of 2022

1.Mallaiyan

2.Senthilvel

3.Bhagiyalakshmi

4.Senthilmurugan

5.Jeyalakshmi

6.Renuka

7.Sathya

... Petitioners

Vs

Aruppukottai Nadar Uravinmurai
Pothu Abiviruthi Trust,
through its Secretary,
Madurai Road,
Aruppukottai Town,
Virudhunagar District.

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order of the Principal District Munsif, Aruppukottai dated 31.08.2021 dismissing the I.A.No.8 of 2021 in O.S.No.164 of 2009.

For Petitioners : Mr.R.Ramadurai



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ORDER

WEB COPY This Civil Revision Petition has been filed as against the order passed in I.A.No.8 of 2021 in O.S.No.164 of 2009 dated 31.08.2021.

2.The petitioner's father one Mallaiyan filed a suit in O.S.No.164 of 2009 for declaration and permanent injunction and pending the suit he died. The petitioners being his legal heirs were subsequently impleaded as parties to the suit. The trial was also completed and the case stood posted for arguments. After the defendants' side arguments, the petitioners have filed an interlocutory application in I.A.No.8 of 2021 under Order 6 Rule 17 of CPC, to amend the status of plaintiff in cause title as trustee, instead of individual capacity.

3.The learned Counsel for the petitioner submits that the above suit was filed for declaration and permanent injunction against the respondent / defendant. The suit was filed that the suit property belongs to Balasubramania Swamy Koil Madam and in the plaint itself it is pleaded



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that the suit property was dedicated to Balasubramaniya Swamy Koil Madam under a registered gift deed dated 10.09.1912 for performing pooja and neivediyams to the deity. Since the petitioners' father initiated the suit and he is no more and also since the suit property belongs to the temple, the petitioners being the legal heirs, have filed an application for amendment of the cause title. However, the trial Court has dismissed the application. Therefore, the petitioners are before this Court.

4.Heard the learned Counsel for the petitioner and perused the materials placed on record.

5.It is seen from records that the above suit was filed by the plaintiffs in the individual capacity. The third plaintiff was examined as PW1 in the year 2016 and he stated that the suit was filed in the individual capacity. Further during the pendency of the suit, the third and fourth plaintiffs passed away and their legal heirs were impleaded as plaintiffs 5 to 7 and plaintiffs 8 and 9 respectively. However, the new trustee has not been impleaded. The trial Court has dismissed the application



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that post trial amendment is not permitted and the petitioners should have taken steps during the trial. Further, the trial Court has also referred the decision rendered by the Hon'ble Supreme Court in Gajanan Krishnaji Bapat and Anr Vs Dattaji Raghobaji Meghe & Ors reported in 1995 5 SCC 347, wherein it has been held that it would be improper to allow the pleadings to amend the cause title at this stage and it would amount to conforming with the evidence already let in the case.

6.In view of the above this Court is not inclined to interfere with the orders passed by the trial Court. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition also stands dismissed.

14.07.2022

dsk

To

The Principal District Munsif,
Aruppukottai.



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B.PUGALENDHI, J.

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