



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2022

CORAM:

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THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P (MD) .No.1108 of 2019

and

C.M.P (MD) No.6034 of 2019

Ainthu Oor Veera Saiva Jankama Sangam,
Office at Madurai Road,
Srivilliputtur Town,
Virudhunagar District
Represented by its President,
S.Sundaram.

... Petitioner/1st Respondent

Vs.

M.Rajamanickam (Died),
(Vinayagar & Kaliyamman Temple Trustee),

1.M.R.Balasubramanian

... 1st Respondent/Petitioner/
Proposed 2nd Appellant

2.Ainthu Oor Veera Saiva Jankama Sangam
Office at Madurai Road,
Srivilliputtur Town,
Virudhunagar District
Represented by its Vice-President,
M.Paramasivam
Srivilliputtur.

3.Ainthu Oor Veera Saiva Jankama Sangam
Office at Madurai Road,
Srivilliputtur Town,
Virudhunagar District
Represented by its Secretary,
S.Duraipandian
Srivilliputtur.

... Respondents 2&3/Respondents 2&3/
Respondents 2&3

4.Kumaresan
5.Dharmalingam
6.Muniyandi
7.Kailasam
8.Nagarajan
9.Munyandi
10.Devakumar

... Respondents 4-10/Respondents 4-10/
Respondents 4-10



11.R.Rajalakshmi

12.M.Geetharani

... Respondents 11&12/Respondents 11&12/
Proposed Respondents 11&12

(Respondents 4 to 10 are given up
in this CRP)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow this Civil Revision Petition by setting aside the order and decree made in I.A.No.105 of 2018 in A.S.No.03 of 2016 dated 04.03.2019 on the file of the Subordinate Court, Srivilliputtur.

For Petitioner	: Mr.M.Thirunavukkarasu
For R1	: Mr.R.Jagadeeswaran
For R4 to R10	: Given Up
For R2,R3,R11&12	: No Appearance

O R D E R

This Civil Revision Petition has been filed to set aside the order and decree made in I.A.No.105 of 2018 in A.S.No.03 of 2016 dated 04.03.2019 on the file of the Subordinate Court, Srivilliputtur.

2.The suit in O.S.No.427 of 2005 was filed by one Rajamanickam as Trustee of Vinayagar & Kalamman Temple to declare him as the trustee of the temple under Order 9 Rule 1 CPC., which was dismissed by the learned Principal District Munsiff, Srivilliputhur. Aggrieved by the said order, he has filed A.S.No.03 of 2016 before the learned Subordinate Judge, Srivilliputhur. During pendency of the appeal suit, the said Rajamanickam died, who has filed a suit in O.S.No.427 of 2005 in the capacity of trustee not an individual capacity. Now, the first respondent/proposed 2nd appellant has filed I.A.No.105 of 2018 in A.S.No.03 of 2016 to condone the delay of 47 days in filing the petition to bring the legal heirs of deceased Rajamanickam on record, which was allowed on payment of cost. Against which, the revision petitioner has filed this Civil Revision Petition.

3.A perusal of records shows that the suit in O.S.No.427 of 2005 was filed only in the capacity of trustee of Vinayagar and Kalamman Temple. Without proving that the proposed parties are the trustee of the temple, the first respondent herein cannot be impleaded as legal heir of Rajamanickam. But without considering the objection raised in the counter affidavit filed by the revision petitioner herein, the learned Subordinate Judge, Srivilliputhur has allowed the said I.A.No.105 of 2018 in A.S.No.3 of 2016 on cost.



4. In view of above, this Civil Revision Petition is allowed. The order and decree made in I.A.No.105 of 2018 in A.S.No.03 of 2016, dated 04.03.2019 passed by the learned Subordinate Judge, Srivilliputhur, is hereby set-aside. No costs. Consequently connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

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.

To
The Subordinate Judge,
Srivilliputtur.

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

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-7952[F] dated 23/02/2022)

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and
C.M.P (MD) No.6034 of 2019
22.02.2022

RS (21.03.2022) 3P-5C