



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.1922 of 2021

and

C.M.P. (MD) No.10348 of 2021

WEB COPY

Nagarajan Poosari

.. Petitioner/Petitioner/
3rd Party

-vs-

1.Gowmariamman Thirukoil

Rep., by its Executive Officer,
Thenkarai, Periyakulam,
Theni District.

2.The Assistant Executive Engineer,

Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Vaigai River Salai, Periyakulam,Theni District.

3.The Executive Officer,

Town Panchayat,
Thenkarai, Periyakulam,Theni District.

4.The Tahsildar,

Taluk Office, Katcheri Road,
Periyakulam Taluk, Theni District.

5.The District Collector,

Theni - Madurai Road,
Theni District.

.. Respondents 1 to 5/
Respondents 1 to 5/
Defendants 1 to 5

6.Murugan Poosari

7.Ramu Poosari

8.Sundararaj Poosari

9.P.Duraipandi

10.Chellapandi

.. Respondents 6 to 10/
Respondents 6 to 10/
Plaintiffs 1 to 5

11.Kamaraj

12.Nataraj

13.Ganesan

14.Chandra

15.Vellaiammal

.. Respondents 11 to 15/
Respondents 11 to 15/
Proposed Parties

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the fair order and ex-order in I.A.No.262 of 2015

<https://hcservices.ecourts.gov.in/hcservices/>



in O.S.No.59 of 2014 dated 08.02.2021 on the file of the District Munsif Court, Periyakulam.

For Petitioner : Mr.S.Manohar

For RR3 to 5 : Mr.N.GA.Natraj,
Government Advocate

WEB COPY

ORDER

The revision petitioner is a 3rd party to the proceedings in O.S.No.59 of 2014 pending on the file of the learned District Munsif, Periyakulam. His application in I.A.No.262 of 2015 to implead him as a party in the above suit had been dismissed by the learned District Munsif, Periyakulam, by order dated 08.02.2021. Challenging the same, he is before this Court.

2. For ease of the understanding, the parties shall be referred to as per their litigative status before the trial court.

3. The facts in brief, necessary to dispose of the petition, are as follows:-

3.1. The plaintiffs herein had filed the suit in O.S.No.59 of 2014 on the file of the learned District Munsif, Periyakulam for an injunction restraining the defendants 1 to 5 herein from interfering with their possession and enjoyment of the suit property and for a mandatory injunction directing the 1st defendant to set aside the registration effected by them in respect of the suit property.

3.2. The suit was being hotly contested by defendants 1 to 3 with each of them filing their respective written statement. While so, the revision petitioner has come forward with the application to implead himself as 6th defendant to the proceedings. In the affidavit filed in support of the said application, the reason for which he seeks to have himself impleaded is that he is the Poosari of the temple and a worshipper too and therefore, interested in the affairs of the temple. He would allege that he apprehends collusion between the plaintiffs and the defendants as a result of which, the defendants' men would not effectively and seriously contest the suit as a result of which, the plaintiffs would get an interest to the suit schedule property. Therefore, he had come forward to file the said application.

4. The plaintiffs had filed a counter *inter alia* contending that the petitioner was not a hereditary Poosari and whether he is a worshipper is subject to proof. They would submit that the suit property belongs to the plaintiffs and not the temple. Further, the petitioner had himself filed O.S.No.104 of 2006 against all the plaintiffs except the 1st plaintiff in respect of the suit property which was dismissed on 18.08.2011. The said judgment and decree was



challenged by the revision petitioner with a delay and the delay condonation application in I.A.No.6 of 2013 was dismissed on 04.03.2014. With this background, which has been suppressed in the affidavit filed in support of the impleading application, the petitioner has come to the Court and therefore, he cannot be impleaded as a party.

5. On the contrary, the plaintiffs would submit that they suspect collusion between the defendants and the proposed party. A counter was also filed by defendants 2 to 5, who also sought to have the application dismissed.

6. The learned District Munsif, Periyakulam, by the impugned order dated 08.02.2021, had dismissed the said application. The learned Judge has observed that the subject matter of the suit is the patta that has been issued by the 4th defendant. The proposed party has no interest in the same, since the interest of the temple has already been taken care of by the Department. Therefore, the learned Judge has dismissed the said application. Aggrieved by the same, the revision petitioner is before this Court.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for respondents 3 to 5.

8. The revision petitioner has unsuccessfully filed the suit in O.S.No.104 of 2016, which was dismissed on 18.08.2011 and the application to condone the delay in filing the appeal had also been dismissed. That apart, the petitioner has not filed any documents to prove that he is the recognised Poosari of the temple. He has also not let in oral evidence either. The only reason given by the proposed party is that he has an interest in the property as a Poosari and as a worshipper. Certain documents were filed before this Court. However, a perusal of the same clearly show that they do not in any manner relate to the revision petitioner.

9. In these circumstances, I do not find any irregularity or defect in the order dated 08.02.2021, passed by the learned District Munsif, Periyakulam in I.A.No.262 of 2015 in O.S.No.59 of 2014 and consequently, this Civil Revision petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// 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 District Munsif, Periyakulam.

+1 CC to M/s.S.MANOVAR, Advocate (SR-2146[F] dated 24/01/2022)

+1 CC to M/s.SPL.GP (SR-2186[F] dated 24/01/2022)

C.R.P. (PD) (MD) No.1922 of 2021

Dated: 21.01.2022

sp (CO)

TR(15.02.2022) 4P 4C