



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S(MD)Nos.187 and 188 of 2018

WEB COPY

Idol Sri Kalyana Pasupatheeswarasamy,
Sri Kalyana Pasupatheeswarasamy Devasthanam,
Karur, Rep. by its Executive Officer.

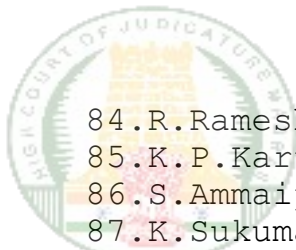
... Appellant/1st Respondent/Plaintiff
in both A.Ss.

Vs.

- 1.A.Panneerselvam
- 2.P.Senthil
- 3.P.Subramaniam
- 4.P.Kandasamy
- 5.K.Ashokkumar
- 6.R.Geetha Rani
- 7.S.Deepa
- 8.S.V.Alagappan
- 9.M.Krishnaveni
- 10.M.Panneer Selvam
- 11.Sampoornam
- 12.Kulandaivel
- 13.Jayaprakash
- 14.R.Selvaraj
- 15.P.Karthikeyan
- 16.V.Nallasivam
- 17.S.Kannammal
- 18.C.Rengasamy
- 19.P.Periyasamy
- 20.M.Pappathi
- 21.K.P.Mariappan
- 22.J.Sasiregha
- 23.Sobiya
- 24.K.V.Thangavel
- 25.P.Arumugam
- 26.K.Chellammal
- 27.P.Padmavathi
- 28.M.Moganambal
- 29.Vembayee
- 30.S.Manonmani
- 31.R.Eswaramurthi
- 32.P.Nallusamy
- 33.S.Banumathi
- 34.E.Senpagavalli



- 35.M.Sadasivam
- 36.S.Santhiya
- 37.M.Devasena
- 38.S.Suganthi
- 39.S.Mathivathana
- 40.S.Madhu
- 41.S.Pradip
- 42.C.Kalarani
- 43.V.Sudaravathanam
- 44.P.Boopathi Murugavel
- 45.K.Sengottuvel
- 46.Balasubramaniam
- 47.S.Gothai
- 48.S.Sasidevi
- 49.S.Radhika
- 50.N.Saroja
- 51.S.Palaniammal
- 52.K.N.Padmanaban
- 53.K.N.Balasubramaniam
- 54.M.Malarkodi
- 55.A.Rengasamy
- 56.A.R.Sundarrajan
- 57.S.Baranidharan
- 58.S.Swetha
- 59.S.Shanthi
- 60.Lavanya
- 61.Srimathi
- 62.N.Ramasamy
- 63.M.Karuppanan
- 64.K.Ramalingam
- 65.R.Parthiban
- 66.K.Kannaiyan
- 67.K.Ranjith
- 68.K.Logesh
- 69.K.Jagadeesh
- 70.Krishnapriya
- 71.V.Lakshmi
- 72.S.Marayee
- 73.K.Kamatchi
- 74.N.Gokulakrishnan
- 75.The Lakshmi Vilas Bank Ltd.,
Karur, Rep. by its General Manager,
Karur.
- 76.M.Narayanasamy
- 77.D.Sukunthageetha
- 78.P.Natarajan
- 79.N.Palaniammal
- 80.Lakshmi
- 81.M.Krishnaveni
- 82.K.Dharmalingam
- 83.K.Subramaniam



84.R.Ramesh
85.K.P.Karthick
86.S.Ammaiyappan
87.K.Sukumar
88.N.E.Kumaran
1.A.Panneerselvam
2.K.Muthusamy
3.M.Dhanabakkyam
4.P.Valarmathi
5.R.Poongodi
6.S.Jaya
7.S.Prabhu
8.M.P.Dharmalingam
9.R.Subramaniam
10.K.Balakrishnan
11.P.Ravikumar
12.P.Balusamy
13.P.Senthil
14.A.Perinbamani
15.A.Appu @ Marappan
16.K.Kandasamy
17.V.K.Shanthi
18.S.Seenirajapnisha
19.K.Muthusamy
20.M.Palaniappan
21.N.Mohamed Nacer
22.The Federal Bank Limited,
Register office,
Alwaye, Ernakulam District,
Kerala Karur Branch
23.P.Kanagaraaj
24.P.Pushbaraj
25.V.Manjula
26.E.A.Eswaramoorthy
27.P.Boopathi Murugavel

... Respondents in A.S.(MD)No.187 of 2018

... Respondents in A.S.(MD)No.188 of 2018

PRAYER in A.S.(MD)No.187 of 2018: Appeal Suit filed under Section 96 of C.P.C., praying to set aside the judgment and decree dated 11.08.2017 made in I.A.No.6 of 2017 in O.S.No.10 of 2017 on the file of the Additional District Judge, (FTMC), Karur.

PRAYER in A.S.(MD)No.188 of 2018: Appeal Suit filed under Section 96 of C.P.C., praying to set aside the judgment and decree dated 11.08.2017 made in I.A.No.9 of 2017 in O.S.No.11 of 2017 on the file of the Additional District Judge (FTMC), Karur.

in A.S.(MD)No.187 of 2018

For Appellant : Mr.G.Sridharan
For R1 : Mr.A.Panneerselvam,
Party-in-Person



WEB COPY

For R2, R9, R13
to R17, R26 to
R31, R34, R36,
R38 and R41 : No Appearance
For R3 : Mr.E.K.Kumaresan
For R6 : Mr.M.Guruprasad
For R20 : Mr.R.Niresh Kumar

in A.S. (MD) No.188 of 2018

For Appellant : Mr.G.Sridharan
For R1 : Mr.A.Panneerselvam,
Party-in-Person

For R2, R3, R9
R13 to R16, R19
R22 to R25 : No Appearance

For R8, R10
to R12 : Mr.M.Mithun
For R18 to R21
R24 to R27 : Mr.P.Samuel Guna Singh
For R20 : Mr.R.Niresh Kumar

COMMON JUDGMENT

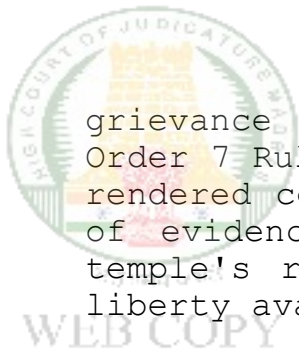
R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

These appeals are directed against the order of the trial Court, rejecting the plaint under Order 7 Rule 11(d) of C.P.C., on the ground that the Executive Officer had not obtained prior approval to institute the suit as required under Section 45(2) of Tamil Nadu Hindu Religious Charitable and Endowment Act, 1959. The necessity for an Executive Officer to obtain approval before instituting suit is no longer *res integra*. This Court had repeatedly held that an Executive Officer cannot maintain a suit without permission of the Commissioner. In fact, Rule 4(b)(iii) of the Rules 2015 Conditions for Appointment of Executive Officers framed under the Tamil Nadu Hindu Religious and Charitable Endowments Act in the year 2015 mandates that the Executive Officer shall sue or be sued in the name of the religious institution in all legal proceedings with the approval of the competent authority, namely, the Commissioner. In fact, the Commissioner, HR & CE has issued a circular of 11.01.2005 instructing the Executive Officers to obtain prior approval for filing suits independently for each temple and each case. A similar circular has been issued again on 20.11.2020. The learned trial Judge has found that such approval has not been obtained.

2.Mr.G.Sridharan, learned counsel appearing for the appellant / Temple is unable to dispute the said finding. However, his
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grievance is that the learned trial Judge in an application under Order 7 Rule 11(d) of C.P.C., had gone on the merits of the case and rendered certain findings, which cannot be justified in the absence of evidence. According to him, such findings would affect the temple's right in a suit, which it may institute pursuant to the liberty available to it under Order 7 Rule 13 of C.P.C.

3.We are in agreement with Mr.G.Sridharan, learned counsel for the appellant on the second submission regarding the other findings rendered by the trial Judge. In view of the factual situation that the approval has not been obtained, we sustain the order of the trial Court, rejecting the plaint. However, all other findings on the merits of the suit are set aside. The plaint will stand rejected only on the ground of want of prior approval.

4.We make it clear that it is open to the temple to file a fresh suit, in view of the liberty available to it under Order 7 Rule 13 of C.P.C. If such a suit is filed after obtaining approval from the competent authority, the trial Court shall dispose of the same without being in any manner influenced by any of the observations made by the trial Judge in the order impugned in these appeals.

5.With the above observations, these Appeal Suits are dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr
To

1.The Additional District Judge (FTMC),
Karur.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.G. SRIDHARAN, Advocate (SR-21817 & 21818 dated
27/04/2022)

+1 CC to M/s.B. SARAVANAN, (E.K.Kumaresan) Advocate (SR-21988[F]
dated 28/04/2022)

+1 CC to M/s.P. SAMUEL GUNASINGH, Advocate (SR-22643[F] dated
29/04/2022)

+1 CC to Mr.M.MITHUN, Advocate SR.No. 21818

27.04.2022

MGJ(31.05.2022) 5P 9C

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