



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P(MD)No.1793 of 2017

C.S.I.Thoothukudi-Nazareth Diocese
through its Treasurer,
Office at Beach Road,
Caldwell Hr.Sec.School Campus,
Thoothukudi.

... Petitioner/Plaintiff

Vs.

1.State of Tamil Nadu
Through its represented by District Collector,
Thoothukudi,
Thoothukudi District.

2.The President,
Sasthavi Nallur Panchayat,
Sathankulam Taluk,
Thoothukudi District.

... Respondents

PRAYER:- Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 29.06.2017 passed in Unnumbered O.S. In Gl.No.924 of 2017 on the file of the District Munsif Court, Sathankulam.

For Petitioner : Mr.M.P.Senthil
For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

Aggrieved by the return of their unnumbered plaint for presenting the same before the proper forum, the plaintiff is before this Court.

2.The brief facts are as follows

(i) The revision petitioner had filed unnumbered O.S.in Gl.No.924 of 2017 for the following reliefs:-

a) to declare the schedule property is the absolute property to the plaintiff trust and consequent grant a permanent injunction restraining the defendant not to



interfere the plaintiff's peaceful possession

b) to grant a mandatory injunction to change the classification of the land in the revenue records from assessed dry waste to issue patta.

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(ii) It is the case of the plaintiff that the suit property and its larger extent belong to the SPG Mission, who transferred the same to the plaintiff on 04.12.1963. From the date of the transfer, the plaintiff is in possession and enjoyment of the suit property. The plaintiff trust association is entitled to the property as it is part of the Thoothukudi-Nazareth Diocese. The property was originally comprised in Survey No.187 of Subramaniapuram measuring total extent of 11 acres and out of this, 11 cents was transferred to the plaintiff SPG Mission. After the resurvey settlement, the schedule property was converted into a village natham and the plaintiff trust put up a house and church. The property was dedicated to the public. The vacant site of the schedule of property was used for holding the religious and social functions of the church. While so, the Tahsildar of Sathankulam by his communication dated 08.6.2012 had informed the second defendant that the suit property was the Government poramboke land and that the second defendant could initiate proceeding under the Panchayat Act. The plaintiff would submit that the schedule property was not vested with the defendants as it was a village natham in which the plaintiff has been in possession and enjoyment. The plaintiff had also initiated writ proceedings against the defendants and they were directed to approach the Civil Court. Hence, after issuing Section 80 Notice, this suit has been filed.

(iii) The learned District Munsif, Sathankulam, has returned the plaint stating that the plaintiff is a trust created for a public purpose and therefore, the leave of the Court had to be obtained before initiating the suit under Section 92 of CPC. For the reason best known to the learned Judge, the learned Judge has waxed eloquent on public trust, private trust, Tamil Nadu Hindu Religious and Charitable Endowments Act, the admissibility of document under Order 30 Rule 4 of CPC etc., The learned Judge had returned the suit on the ground that it is only the District Court which would have jurisdiction, to decide the suit filed by the trust, under Section 92 of CPC and that apart, the pecuniary value of the proceedings would also have to be taken note of. Therefore, the learned District Munsif had directed the plaint to be returned for presentation before the jurisdictional Court. Challenging the said order, the revision petitioner/plaintiff is before this Court.

3. Heard the learned counsel appearing on either side and perused the records.



4.The suit has been filed by the petitioner for declaration of his title to the property and for a consequential permanent injunction and that apart for a mandatory injunction with reference to the reclassification of land. The relief claimed by the petitioner, by no stretch of imagination, would fall under the category prescribed under Section 92 of the Code of Civil Procedure. Therefore, the observation of the learned District Munsif that the suit being one under Section 92, the same could only be filed before the District Court, is absolutely baseless. That apart, the detailed finding and observation with reference to the pecuniary jurisdiction of the Court, is also totally unwarranted and uncalled for. The learned District Munsif has to only consider the averments in the plaint and consider the relief. The learned District Judge, Santhankulam has exceeded the jurisdiction vested with him. Consequently, this Civil Revision Petition is allowed and the order dated 29.06.2017 passed in unnumbered O.S.in Gl No.924 of 2017 on the file of the District Munsif Court, Sathankulam, is set aside. The learned District Munsif, Sanathankulam, is directed to number the suit within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

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/ /2022

Sub Assistant Registrar(CS)

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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:-

1.The District Munsif, Sathankulam.

2.The District Collector,

Thoothukudi, Thoothukudi District.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-3508[F] dated 01/02/2022)

+1 CC to M/s.SPL.GP (SR-3713[F] dated 02/02/2022)

C.R.P(MD)No.1793 of 2017

01.02.2022

nsn(CO)

TR(14.02.2022) 3P 5C