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C.R.P.(NPD)No.719 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD)No.719 of 2006

T.Srinivasa Varadhachariar (Died)

1.T.Andalammal

2.T.S.Seshadri (Died)

3.T.Rajagopalan

(3rd Petitioner impleaded vide court order dated 06.07.2023 made in CMP.Nos.9979, 9987, 9994 & 10002 of 2023 in CRP.No.719 of 2006 by this Court)

4.T.S.Srinivasa Raghavan

5.T.S.Prasanna

.. Petitioners

(2nd Petitioner Died. Petitioners 4 and 5 brought on record as LRs of the deceased Petitioner-2 Viz. T.S.Seshadri vide court order dated 06.07.2023 made in CMP.Nos.9979, 9987, 9994 & 10002 of 2023 in CRP.No.719 of 2006 by this Court)

VS

1.T.C.Srinivasan

2.Arulmighu Sri Devarajaswamy Devasthanam

rep. by its Managing Trustee
Devarajaswamy Temple Complex
Chinna Kancheepuram
Kancheepuram Dist.

.. Respondents



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Petition filed under Section 115 of Civil Procedure Code against the fair and the decretal orders dated 29.04.2005 passed in I.A.No.143/96 in ASSR 6066/1995 on the file of the Sub Court, Kancheepuram.

For Petitioners : Mrs.Hema Sampath, Senior Counsel
for Mrs.R.Meenal

For Respondents : Mr.S.Parthasarathy, Senior Counsel
for Mr.K.a.Vimal Kumar (for R1)

Mr.K.Hari Haran (for R2)

ORDER

This revision arises against an order passed in I.A.No.143 of 1996 in AS.SR.No.6066 of 1995 on the file of the Subordinate Court, Kancheepuram. I.A.No.143 of 1996 was filed seeking leave to file an appeal against the judgment and decree in O.S.No.839 of 1994 on the file of the Principal District Munsif, Kancheepuram.

2.O.S.No.839 of 1994 was a suit for declaration that the memo issued by the Executive Officer in Na.Ka.No.12/1994 dated 25.05.1994 is void ab initio and for restraining the defendant from interfering with or altering the order dated 21.02.1992 in Na.Ka.No.26/1991 on his own file.



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3.The suit was decreed on the ground that the defendant had literally conceded to the case. The Court recorded the statement and disposed of the suit in terms of Order 12 Rule 6.

4.While this revision was pending from 2006, Mr.S.Parthasarathy, brought to my notice that the respondent herein had filed a writ petition in WP.No.9093 of 1999 to implement the order dated 21.02.1992 in Na.Ka.No.26/1991 in terms of the judgment in O.S.No.839 of 1994 dated 08.06.1995. The writ petition was dismissed, against which an appeal was preferred before the Division Bench in WA.No.253 of 2006.

5.The Division Bench by consent of either parties, had set aside the order of the learned single Judge and passed the following directions:

'3.It is brought to our notice that under Section 63(e) of the H.R. & C.E. Act the jurisdiction to decide the custom and usage is with the Joint Commissioner and not the Commissioner. The Commissioner is directed to forthwith transfer the proceedings to the concerned Joint Commissioner. The Joint Commissioner shall treat the petition as properly presented. The parties are at liberty to raise all the contentions before the Joint



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Commissioner. The Joint Commissioner shall decide the petition as expeditiously as possible and in any event, within a period of three months from today. It will be open for the parties to apply for interim reliefs, if permissible by law The writ appeal is disposed of. No costs. W.A.M.P.No.550 of 2006 is closed.'

6.In terms of the said directions, Mr.S.Parthasarathy, learned Senior Counsel appearing for the first respondent as well as Mrs.Hema Sampath, learned Senior Counsel for the petitioner would state that the parties have approached the Commissioner, Hindu Religious and Charitable Endowment in terms of Section 63 of the HR&CE Act and that the same is pending.

7.Since orders of this Court have directed the parties to approach the authorities under the HR&CE Act, it is left open to the parties to agitate their rights before the Commissioner, HR&CE. The Civil Revision Petitioners will be entitled to file an impleading application claiming the right under Section 63. The said application to implead will be disposed of on its merits.



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8.The respondent Mr.T.C.Srinivasan is granted liberty to raise all the objections with respect to the impleading application. Recording the same, this civil revision petition is disposed of. No costs.

18.07.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs

To

The Sub Court,
Kancheepuram.



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V. LAKSHMINARAYANAN,J.

VS

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