



S.A.No.949 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No.949 of 2007

and

M.P.No.2 of 2007

Thirumanmalai Thirumal Thiruppani
Paripalana Trust,
Rep. by its Managing Trustees
T. Varadharajan
Mankundrumalai,
Parampattu Village and Post,
Tirupattur Taluk,
Vellore District.

... Appellant

Vs.

1.Selvanm

2.Settu

3.Chenna Krishnan

4.Rajamanickam

... Respondents



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PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure against the judgement and decree 31.01.2007 made in A.S.No.70 of 2005 on the file of the Court of the Subordinate Judge, Tirupattur, confirming the judgement and decree dated 25.07.2005 made in OS.No.283 of 1999 on the file of the Court of the District Munsif, Tirupattur and submits that the same is erroneous, illegal and liable to be set aside.

For Appellant : Mr.D.Balachandran

For Respondents : M/s.B.S.Mitranshaa for M/s.V.Srimathi
[R.1 to R.4]

JUDGMENT

The substantial question of law involved in the above Second Appeal is *whether the suit should fail since no permission under Section 92 of the Code of Civil Procedure has been obtained by the plaintiff/Trust from the Court ?* Since the issue is purely legal, I do not propose to traverse into the intricate details of the case on hand. Suffice it to state that the appellant, who is none else than the plaintiff, had filed the suit OS.No.283 of 1999 on the file of the District Munsif, Tirupattur for a bare injunction restraining the



defendants from interfering with the management of the temple and from collecting the amounts in the hundial of the temple.

2. The defendants had filed a written statement denying the claim of the plaintiff.

3. The Trial Court had framed the following issue which is translated from the vernacular as follows:-

1. Whether the plaintiff is entitled to permanent injunction in respect of relief (A) ?

2. Whether the plaintiff is entitled to the relief of permanent injunction in respect of relief (B) ?

3. Whether the suit for a bare injunction without declaration was maintainable ?

4. On the side of the plaintiff three witnesses were examined and Ex.A.1 to A.10 were marked. On the side of the defendants one witness was examined and no documents were marked.



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5. The Trial Court however proceeded to dismiss the suit on the ground that since the plaintiff/Trust was a public Trust the suit was not maintainable as no permission under Section 92 of the Code of Civil Procedure had been obtained. This judgement was taken up on appeal by the plaintiff in A.S.No.70 of 2005 on the file of the Sub Court, Tirupattur. One of the grounds that has been raised in the appeal by the plaintiff was that the maintainability of the suit has not been framed as an issue and therefore the plaintiff had been deprived of an opportunity to address the same.

6. The Appellate Court on considering the evidence on record upheld the judgement and decree of the Trial Court. The learned Judge observed that both the plaintiff and the defendants had admitted that the plaintiff/Trust was a public Trust and the suit temple was also a public temple and therefore, a suit filed without seeking leave of the Court was not maintainable.

7. Heard the counsels on either side.



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8. The suit temple admittedly is a public temple and is not a private temple. The plaintiffs have themselves admitted that the management of the temple is by trustees who were appointed by the Hindu Religious and Charitable Endowments Board. In the plaint they have themselves stated in Para. No.6 as follows:-

“The said Makundu Chennakesava Perumal temple is a public temple and it is not a private temple of the defendants and the defendants have no right in the management of the temple.”

9. The plaintiff/Trust is also submitting accounts to the Board. The Trust has been created for managing the activities of the temple. The relief that is claimed pertains to the management and administration of the temple by the Trust.

10. Therefore, the Judgement and Decree of the Courts below are very much in order particularly when the plaintiff themselves have stated that the temple is a public temple and its administration is with the plaintiff/Trust.



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The substantial question of law is therefore answered against the plaintiff,
the Second Appeal is dismissed. No costs. Consequently, the connected
Miscellaneous Petition is closed.

24.01.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation :Yes/No
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To

- 1.The Subordinate Judge, Tirupattur,
- 2.The District Munsif, Tirupattur.



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