



S.A No.535 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

S.A No .535 of 2018
& CMP No. 15020 of 2018

1.Prabavathi
2.Jaichand Babu
3.Ramesh Babu
4.Jaya Shree
5. Vanishree
6.Parimala
7.Sudhakar
8.Jayaprakash
9.Pasuapaleti

.... Appellants

Vs

1.S.Devarajan
2.R.Devaraj
3.B.Govindasami
4.P.Chandiran
5.V.Srinivasan
6.N.Srinivasamurthy

....Respondents

PRAYER : This Second appeal filed under Section 100 of the Code of Civil Procedure to set aside the judgment and decree passed in A.S No.169 of 2017 on the file of Principal District Court, Vellore, dated 07.06.2018



S.A No.535 of 2018

confirming the judgment and decree of the trial court dated 31.07.2017 passed in O.S No.103 of 2017 on the file of Subordinate Court, Gudiyatham and allow the appeal.

For Appellants: Mr.R.Subramanian

for Mr.C.Jagadish

For Respondents:Mr.V.Lakshminarayanan

for Mr.M.Sathiskumar

JUDGMENT

Challenging the concurrent findings of the Subordinate court, Gudiyatham in O.S No. 103 of 2017 and the Principal District Court, Vellore in A.S No. 169 of 2017, the appellants preferred this appeal.

2. The learned counsel for the appellants submitted that the suit property/temple in S.No.71/1 has been constructed by the appellants' forefather one Pasupalapatti Appi Naidu is his property. Further, mere allowing to worship the temple by the public would not amount to it belong to the the general public and also except hindu community no one is allowed to worship the temple. But the respondent claiming the right over the temple under the guise of worshipping the temple. Further the appellants have Patta in their favour in respect of the suit temple. However the Court below dismissed the suit without considering the above. Hence he prays to



S.A No.535 of 2018

allow this appeal.

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3. The learned counsel for the respondent submitted that suit property Arulmigu Sri Sakthi Kaliamma Kovil is a public temple for seven villages in and around it. The respondents herein along with representatives of the other villages formed a committee since 2004 and they renovated the said temple and constructed necessary buildings for the temple by collecting money from the general public. Later the said committee is converted as Trust by Trust deed dated 08.06.2012 for the managing the said temple. But with an ulterior motive the appellants filed the suit, the Court below rightly dismissed the petition which needs no interference.

4. This Court admitted the appeal with the following substantial questions of law:

1. Whether the Courts below have properly appreciated the law relating to administration and management of public temples?

2. Whether the conclusion of the lower appellate Court that the civil Court has jurisdiction in view of the earlier finding in the appeal against the order passed in the application under Order 7 Rule 11 that the Civil Court has got jurisdiction?

5. On seeing the fact, the suit has been filed by the appellants for the relief of declaration and injunction in respect of suit property/Arilumigu Sakthi Kaliamman Kovil temple situated in S.F. No.71/1 claiming suit temple as private temple. The defendants stated that



S.A No.535 of 2018

suit temple is public temple which belongs to the 7 villagers in and around it and the same was renovated by collecting donation from the public and maintained by the separate community and also formed trust by trust deed dated 08.06.2012 and maintained the temple.

6. The point to be decided is whether the suit temple is private or not?

7. First of all, the appellants boud to prove that the temple was built in their own land. But the appellant failed to produce any document with regard to their ownership. Instead they produced Patta and Ex.A2 to 8/ revenue records. Admittedly, Patta is not a document for title. As rightly pointed out by the lower Court that the appellants cannot claim declaration based on the Patta only, they should have produced material evidence to prove their title but they failed to adduce before the Trial Court. Furthermore, on bare perusal of evidence of P.W.1 to P.W.3, wherein they admitted that suit temple was built and renovated with contribution of public.

8. Furthermore, the judgement of this Court reported in 2015 5 LW 359 The Principal Secretary, HR & CE Department, Chennai – 34 & Others Vs G.Paramasivam & Others extracted below:



S.A No.535 of 2018

Public at large are worshipping in the temple by forming necessary committees and also performed consecration. Unless competent authority declares a temple to be a private temple, all the temple are deemed to be "public temples" No suit shall be instituted in a Civil court for determining the management of a temple or even in affairs relating to the Temple, or with regard to dispute relating to the ownership of the Temple. Dispute to be decided only as per Sections 63 and 10 of the Act suit is not maintainable".

9.Hence the Civil Court has no jurisdiction to try this suit, and the same was rightly concluded by the Court below which needs no interference. Accordingly questions of law are answered.

10. In result, the second appeal is dismissed as no merits. Thus suit is dismissed. There shall be no order as to costs. Consequentially connected miscellaneous petitions is closed.

18.04.2023

pbl

To

1. The Principal District Court, Vellore.
- 2.The Subordinate Court, Gudiyatham.
- 3.The Section Officer,
V.R Section.



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S.A No.535 of 2018

T.V.THAMILSELVI,J.

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S.A No .535 of 2018
& CMP No. 15020 of 2018

18.04.2023