



S.A No. 355 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01. 2023

CORAM:

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

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Krishnamurthy

...Appellant

Vs.

Sri Ramalinga Swamigal Podhu Nala
Suddha Samarasa Sanmarga Sangam,
Malumiyarpettai Represented by its

1.President G.Ramalingam

S/o Govinda Nattar,
Malumiyarpettai,
Cuddalore- O.T.,
Cuddalore Taluk,
Cuddalore District.

2. Generala Secretary

N.Thirunavukkarasu,
S/o Natesan,
No.6, Drowpathhi Ammal Koil Street,
Malumiyarpettai,
Cuddalore- O.T.,
Cuddalore Taluk,
Cuddalore District.

... Respondents



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PRAYER: This Second appeal filed under Section 100 of the Code of Civil Procedure against the judgement and decree of the learned II Additional Subordinate Judge of Cuddalore dated 30.08.2012 and passed in A.S.10 of 2011 dismissing the appeal, confirming the judgement and decree of the Additional District Munsif of Cuddalore dated 10.12.2010 and passed in O.S 490/2008.

For Appellant : Mr.R.Gururaj

For Respondents : Mrs.Chitra Sampath Senior counsel.
Mr. T.S.Baskaran.

JUDGMENT

The appellant herein is the first defendant in suit O.S No. 490 of 2008, on the file of the Additional Sub Judge Cuddalore, which was filed by the respondent/plaintiffs representatives for Sri Ramalinga Swamigal Podhu Nala Suddha Samarasa Sanmarga Sangam Malumiyarpettai, for the relief of declaration, and for delivery of possession, and permanent injunction against the defendant. The contention of the plaintiff is that the suit property is a vacant land which was purchased by first plaintiff's father Govinda Nadar who was an ardent follower of the Swami Ramalinga Adikalar. Then his father founded the Sangam in the year of 1950, during



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his father's life time, the suit property was purchased by him through registered sale deed dated 02.08.1958 in the name of the Sangam describing himself as Managing Trustee of the Sangam though it was private one not registered and he managed it till his death. He written a letter in the year 1960 in which he expressed his displeasure over the committee members and he expressed that suit property should not be alienate by his heirs or by public. Thereafter his son first plaintiff took management of the Sangam and the suit property. Second plaintiff is the General secretary of the Sangam. Thereafter, on 04.07.2007, Sangam was registered before the Registrar of societies, Cuddalore. The patta for the suit property stands in the name of the plaintiff's father and plaintiff's Sangam is the absolute owner of the property and is in peaceful possession and enjoyment. The defendant 1 and 2 then Village president and trustee trespassed into the suit property forcefully admitted to put up a Pucca shed in the suit property to park the Corpse Carrier. Hence the suit.

2. The contention of the defendant is that the plaintiff's father purchased and organised the Sangam but the members are not cooperative he handed over Sangam and property by resolution passed in the year 1960. Thereafter Sangam was named as Sutha Samarasa Sanmarga Sangam (is



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short "Sangam") , managed by the villagers through its president from 1960 onwards they are maintaining the records. The first plaintiff is the then Government Servant of Registration Department, and the second plaintiff is conductor of State Transport corporation they are residing Cuddalore instead they were given wrong address as if they are living at Malumiarpetai. Hence alleged formation and registration of the Sangam itself defective Further, the plaintiffs never managed the suit property or the temple. As a Panchayat president and Trustee the first and second defendants managed the temple and in possession of the property and the remaining areas were leased out every now and then. The father of the plaintiff was lessee as alleged by the plaintiffs' they have not trespassed the suit property. As of now they are maintaining the Sangam and the suit property. Hence pray to dismiss the suit.

3. Considering the oral and documentary evidence of both sides the trial Court held that as per the registration certificate/Ex.A8 the plaintiffs have been elected as president and Secretary of the society and Sangam is registered as per the law and the the plaintiff established that they are residing in the said native place the documents produced on the side of the plaintiffs shows that plaintiff Sangam is the owner of the



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property there is no document to prove to about the lease of the properties.

Further, the defendant's not proved that they are management of the said Sangam they have no locus standi to enter into the affairs of the Sangam. Accordingly suit was decreed as prayed for.

4. Against the same the defendants preferred appeal in A.S No. 10 of 2011 on the file of the second Additional Sub Court, Cuddalore, which independently analysed the facts and evidence held that the suit property was purchased by the father of the plaintiff after his demise the first plaintiff being a son became president of the Sangam and took over the management of the affair. Subsequently, Sangam was registered in the year of 2007 and suit property patta also absolutely belongs to the Sangam now as per the registration certificate produced by the plaintiff he became president of the said Sandgam and the defendants failed to establish that they managed the Sangam. Accordingly appeal was dismissed confirmed the findings of the Trial Court.

5. Challenging the concurrent findings this second appeal has been preferred by the first defendant contending that both the Court below failed to taken into note of the fact that from the year of 1970 when the plaintiffs' father caused displeasure over the attitude of the committee



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member till 2007 there is no document adduced on the side of the plaintiff to prove that they were in management of the temple. In spite of that on the other hand defendant established that entire management was done by the president of that Village. Instead of appreciating those facts and documents the Court below erroneously decreed the suit in favour of the plaintiff's as such is unfair and liable to be set aside. Besides the Trial Court failed to appreciate the documents produced on the side of the defendants. Hence he prayed to set aside the findings.

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

- i. Were not the Courts below at grave error in not even referring to the overwhelming exhibits filed by defendants?
- ii. Did not the lower Courts commit a grave error in failing to see that appellant herein is in management and that the temple is managed by representatives of public?
- iii. Were not the lower courts wrong in failing to see that there is no evidence of plaintiffs having been in possession and that society functioning?

7. The learned counsel for the appellant contended that there is no proof adduced on the side of the Sangam that on the date of filing of the suit they failed to produce document to establish that after 1996 Sangam was under the management of the plaintiff without which the Trial Court



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erroneously decreed the suit in favour of the plaintiff as such is totally unfair liable to be set aside.

8. By way of reply the learned counsel for the respondent submitted that the plaintiff produced registration certificate under the society Act which was marked as Ex. A.8 dated 04.07.07 by relying this the Trial Court rightly held that plaintiff's Sangam under the management of the plaintiff which need no interference.

9. Considering the submissions on either side the point to be decided is whether the Sutha Samarasa Sanmaraga Sangam is under the management of plaintiffs or defendants.

10. It is admitted fact that the plaintiff's father purchased suit property through Ex.A1 dated 02.08.1956 who was the ardent follower of the Ramalinga Adikalar. In order to preach the principles of the Ramalinga Adikalar the plaintiff's father purchased the suit property in the name of the plaintiff's Sangam though it was unregistered and private one (small madam) in the suit property and the same in is possession and management of the plaintiff's father but in the year 1960 he expressed displeasure over the members and written letter through which he expressed/ copy of the



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letter marked as Ex.A2 the entire recitals of the said Ex.A2 clearly indicate that the father of the plaintiff purchased the properties for the purpose of running the Sutha Samarasa Sanmarga Sangam and not for public purpose of that village or his legal heirs have right to alienate the property nor village people also vested with right to alienate the property and also expressed that Sangam should perform with the follower of the sangam members. Hence the objective of the Sangam is to preach the principles of the Ramalinga Adikalar, no one have the power to alienate said property and also not permitted to use the Sangam for any other purpose. Admittedly, Sangam was unregistered at that time, in the year 2007 Sangam was registered as per Ex.A8 on the date of filing of the suit Sangam was registered the plaintiff's reposing as secretary of the said Sangam with the help of those documents plaintiff able to established that the suit property was purchased by his father for the Sangam and it was registered and they managed affairs of the Sangam.

11. But the contention of the defendant is that after displeasure expressed by father in Ex.A2/letter, village peoples are running the said Sangam through its village president the first defendant being president of the village was managed the affairs of the said Sangam. Admittedly he was a



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village president and also Trustee of the temple of that village but he has not produced any document to show that he was appointed neither as a president nor Secretary of the Sangam. Even alleged resolution relied on the side of the defendant not indicate that the plaintiff Sangam under their management the documents relied on the side of the defendant are related with the affairs of the temple of the village not related with plaintiff Sangam. So there is no evidence on the side of the defendants that they were managing the said Sangam ever since from 1966. therefore, the Court below rightly appreciate this facts in detailed manner which needs no interference. So the plaintiff's proved that they are managing the Sangam and its affairs. Accordingly question of law 1, 2 and 3 are answered.

12. Further, the facts reveals that small portion of the property was occupied under the third party photographs produced on the side of the plaintiff proved that corpss carrier parked in the plainitiffs land it is not permissible it would also violate the principles of Sangam and violate the purpose for which Sangam was established. Therefore the defendant have no authority to interfere with the affairs of the Sangam as well as they are not entitled to lease out the Sangam's property to third properties to that



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effect findings of the Court below is sustainable which needs no interference. So the Judgment of the Courts below is confirmed, the plaintiff Sangam is entitled for the relief of recovery of possession and permanent injunction accordingly suit is decreed as prayed for.

13. In result, the second appeal is dismissed. No merits. There shall be no order as to costs. Consequentially connected Miscellaneous petition if any is closed.

25.01.2023

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To

1. The II Additional Subordinate Court, Cuddalore.
2. The Additional District Munsif Court, Cuddalore.
3. The Section Officer,
V.R Section.

T.V.THAMILSELVI,J.



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