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C.R.P.No.3307 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P. Nos.3307 and 3313 of 2023
and
C.M.P.Nos.20440 and 20486 of 2023

1. Arumugam

2. Pandian

3.Ravichandran

4.Murugavel

... Petitioners in C.R.P.No.3307 of 2023

1. A. Pakkirisamy

...Petitioner in C.R.P.No.3313 of 2023

Vs.

Sri Siddhi Vinayakar Pillayar Koil
Represented by Hereditary Trustee M. Sowriraj
S/o Malaiyaperumal pillai
No.14, Nanayakara Street Nagore Town,
Nagapattinam Taluk and District

..Respondents in both C.R.P's

Prayer in C.R.P.No.3307 of 2023 : Civil Revision Petition filed under 227
of the constitution of India to set aside the fair and decreetal order



C.R.P.No.3307 of 2023

31.07.2023 in I.A.No.2 of 2023 in O.S.No.179 of 2009 on the file of District Munsif Court, Nagapattinam and allow this civil revision petition.

Prayer in C.R.P.No.3313 of 2023 : Civil Revision Petition filed under 227 of the constitution of India to set aside the fair and decreetal order 31.07.2023 in I.A.No.2 of 2023 in O.S.No.178 of 2009 on the file of District Munsif Court, Nagapattinam and allow this civil revision petition.

For Petitioners : Mr.P. Dinesh Kumar

For Respondent : Mr. C. Umashankar

COMMON ORDER

These Civil Revision Petition have been filed to set aside the fair and decreetal order 31.07.2023 in I.A.No.2 of 2023 in O.S.Nos.178 and 179 of 2009 on the file of District Munsif Court, Nagapattinam and allow this civil revision petition.

2. The case of the petitioners are that they have filed sepearate petitions under Order 14 Rule 2 of C.P.C to frame an additional issue, whether the suit is maintainable as to the capacity for the respondent who



had filed the case as dharmakarthas of the temple and the same was dismissed vide order dated 31.07.2023, which has given rise to this petition.

3. The learned counsel for the petitioners submitted that the Respondent herein has no right to file the present suit as hereditary trustee of the temple. Hence, the trial Court has not considered the vital facts and passed the impugned order mechanically which requires interference by this Court. Hence, this petition.

4. The learned counsel for the respondent that the Court below has gone into each and every aspect in proper perspective and arrived at a conclusion that there is no necessity to interfere with the impugned order and prays to dismiss this petition.

5. On a perusal of records it is seen that earlier the said issue whether the respondent can file the suit as a hereditary trustee of the temple? was dealt in I.A.Nos.96 and 97 of 2011 and the learned Judge vide order dated 21.01.2023 held that since it is a mixed question of law and fact, the same will be framed as an issue and it will be heard along with the other issues after the trial. Aggrieved over the same the 4th petitioner in C.R.P.No.3307 of



2023 and the petitioner in C.R.P.No.3313 of 2023 preferred C.R.P.Nos.960 and 962 of 2023 before this Court wherein the learned Judge has directed to file another application under Order 14 Rule 2 to frame additional issue in respect of the capacity of the respondent to file the suit as hereditary dharmakartha of the temple and further directed the trial Court to consider the same and pass order. Hence, the petitioner has filed the present I.A.Nos.2 of 2023 in O.S.No.179 of 2009 under Order 14 Rule 2 of C.P.C.

6. On a reading of the impugned order the learned Judge has made an observation that the issue as to whether the suit is maintainable as to the capacity of the respondent who had filed the case as dharmakartha of the temple has been framed. When such being the position, this Court deciding upon the same dispute over and again by this Court amounts to vexatious litigation and results in delay of justice. The said findings of the learned Judge reveals that when the prayer sought for by the petitioners is in progress he is seeking the same relief with the same prayer.

7. In view of the above, these Civil Revision petition are dismissed. No order as to costs. Consequently the connected miscellaneous petitions are dismissed. However, as the suit is of the year 2009 and the same is pending



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till date, this Court directs the District Munsif Court, Nagapattinam to decide the issue discussed in the I.As and dispose the case within a period of four months from the date of receipt of a copy of this order.

10.10.2023

Internet : Yes/No

Index : Yes/No

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To

The District Munsif Court, Nagapattinam



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T.V.THAMILSELVI, J.

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