



CRP No.4341 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-01-2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP No.4341 of 2022

And

CMP No.22888 of 2022

J.K.Krishnamoorthy

.. Petitioner

vs.

1.The Executive Officer,
A/M Rajagopalaswami Thirukoil,
Pudupalayam,
Cuddalore – 607 001.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Cuddalore.

3.The Commissioner,
Hindu Religious and Charitable Endowments,
Chennai.

.. Respondents



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PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India against the dismissal of the Advocate Commissioner Application in IA No.37 of 2022 in OS No.113 of 2021 dated 06.09.2022 passed by the learned Principal District Munsif Court, Cuddalore.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mr.N.R.R.Arun Natarajan,
Special Government Pleader (HR&CE).

ORDER

The present Civil Revision Petition has been filed under Article 227 of the Constitution of India challenging the fair and decretal order passed in IA No.37 of 2022 in OS No.113 of 2021 dated 06.09.2022 on the file of the learned Principal District Munsif Court, Cuddalore.

2. This Court when the matter was taken up for admission issued notice to the Special Government Pleader (HR&CE), who in turn appeared and made a submission that the order under challenge in the suit was taken by way of an appeal by the revision petitioner/plaintiff before the Commissioner,

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Hindu Religious and Charitable Endowments Department, who in turn rejected the appeal by a common order dated 08.07.2020 and the very same revision petitioner Mr.J.K.Krishnamoorthy filed further Civil Revision Petition before the Government, which was also rejected in G.O.Ms.No.50, Tourism, Culture and Religious Endowments (RE3.2) Department, dated 25.02.2021. Thus the suit itself is not maintainable as there is an express bar under Section 108 of the Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as the 'Act', in short]. Under Section 108 of the Act, “no suit or other legal proceeding in respect of the Administration or Management of a Religious Institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act”.

3. The learned counsel for the revision petitioner at that juncture made a submission that he may be permitted to withdraw the present Civil Revision Petition. However, this Court is not inclined to grant permission in



view of the fact that the suit is not only expressly barred under Section 108 of the Act, but institution of the suit itself amounts to abuse of the process of law.

4. The petitioner was already declared as an encroacher in respect of the temple property and eviction proceedings initiated under Section 78 of the Act, was disposed of by the Competent Authority and the order of eviction was confirmed by the Commissioner and the Government under the provisions of the Act.

5. While-so, the revision petitioner suppressed those facts and challenged the original order passed by the Joint Commissioner under Section 78 of the Act in proceedings dated 06.02.2019.

6. The plaint averment reveals that no details regarding the order passed by the Commissioner and the Government has been stated. The relief sought in the plaint is to declare that the order passed by the Joint



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Commissioner, HR&CE Department, Cuddalore in proceedings dated 06.02.2019 is illegal and null and void. Thus the petitioner/plaintiff instituted a suit, which is expressly barred under Section 108 of the Act and thus the suit is not maintainable under Section 9 of the Code of Civil Procedure.

7. That apart, the order which is under challenge in the plaint dated 06.02.2019 was passed by the Joint Commissioner, HR&CE Department, Cuddalore under Section 78 of the Act, which was confirmed by the Commissioner, HR&CE Department, on 08.07.2020 and both the orders were confirmed by the Government in G.O.Ms.No.50, Tourism, Culture and Religious Endowments (RE3.2) Department, dated 25.02.2021. Already more than 1-1/2 years lapsed and the petitioner is yet to be evicted by the Competent Authorities.

8. The Competent Authorities are bound to evict the petitioner/plaintiff immediately without causing any undue delay, since the contention of the petitioner itself is illegal and in violation of the order passed by the



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Competent Authorities, namely, the Joint Commissioner and the Commissioner, HR&CE Department and the Government under the provisions of the Act. Thus, the Competent Authorities of the HR&CE Department has to immediately vacate the petitioner in order to protect the temple property in the manner contemplated under the Act.

9. As far as the plaint is concerned, it is not only expressly barred under the Act, but abuse of process of law.

10. Thus this Court is inclined to strike off the plaint itself in the present Civil Revision Petition by invoking the powers under Article 227 of the Constitution of India.

11. Accordingly, the plaint filed in OS No.113 of 2021 is strike off and stands dismissed. Consequently, the present Civil Revision Petition is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.



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Speaking Order/Non-Speaking Order.

Neutral Citation : Yes/No.

Internet : Yes/No.

Index: Yes/No.

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To

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S.M.SUBRAMANIAM, J.

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