



C.R.P(MD)No.974 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.974 of 2023

and

C.M.P(MD)No.4447 of 2023

1.S.Selvam

2.S.Geethaselvam

... Petitioners/Respondents/
Plaintiffs

Vs.

1.Madurai Velliambalam Thirupparankundram
Odukkam Vagaiyara Charities
Through its Managing Trustee,
Thiur.J.Ramamoorthy,
S/o.Janakarajan
Office at 67/29, Mela Chetti Street,
South Avanimoola Street,
Madurai-625 001

...1st Respondent/1st Petitioner/
1st Plaintiff

2.J.Ramamoorthy

...2nd Respondent/2nd Petitioner/
2nd Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the impugned fair and decreetal order, dated 09.01.2023 made in I.A.No.271 of 2022 in O.S.No.28 of 2017 on the file of the Principal Sub Court, Madurai, and set aside the same.



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For Petitioners : Mr.K.Kharikharadas

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ORDER

The present civil revision petition has been against the impugned fair and decreetal order, dated 09.01.2023 made in I.A.No.271 of 2022 in O.S.No.28 of 2017 on the file of the Principal Sub Court, Madurai.

2. The petitioners are the defendants in O.S.No.28 of 2017 before the Principal Sub Court, Madurai. In the said suit, the respondents/plaintiffs filed I.A.No.271 of 2022 under Order VI Rule 17 read with Section 151 of C.P.C., to amend the plaint as per the particulars of amendment. The Trial Court allowed the said application with the following observations:

"8. The above petition was resisted on the side of the respondents that the affidavit filed by one S.S.Padmanaban is a third party in the suit. Hence without filing the imp leading petition, this amendment petition is not maintainable and that the entire allegations mentioned in Para-3 of the affidavit are strongly denied by the respondents as incorrect and false and that the petitioners/plaintiffs should prove the averments mention in para-3 of the affidavit by way of oral and documentary evidence and that further, the petitioners trust is not notified by the government as a religious or charitable institution. Hence this petition is not maintainable. Hence this petition has to be dismissed.

9. Both side submissions considered. Records perused. The original suit is in the stage of DW.1, DW2 side evidence at this juncture the petitioner filed this petition. The contention of the



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petitioner is that the petitioner was elected as managing trustee of the trust. Hence the earlier managing trustee K. Ramamoorthy may be deleted and the present Managing Trustee may be included in the place of the said Ramamoorthy to that effect filed this petition. The only contention raised on the side of the respondent is that the affidavit filed by one S.S.Padmanaban is a third party in the suit. Hence without filing the impleading petition this amendment petition is not maintainable. The copy of resolution showing the election of the petitioner as Managing Trustees is produced along with the petition. Considering the above in order to avoid further complication in the suit with regarding to the managing trustee in the interest of justice this court is inclined to allow this petition.

In the result, this petition is allowed. No cost."

3. Aggrieved by the same, the petitioners/defendants filed the present Civil Revision Petition.

4. In my view, the impugned order does not call for any interference. The present civil revision petition is liable to be dismissed.

5. Considering the fact that the suit is of the year 2017, the Principal Sub Court, Madurai is directed to dispose of the O.S.No.28 of 2017 as expeditiously as possible preferably within a period of 12 months from the date of receipt of copy of this order.



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6.The present Civil Revision Petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

11.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Principal Sub Court, Madurai.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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