



C.R.P.(MD)No.905 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.905 of 2019

and

C.M.P.(MD)No.5235 of 2019

1.M.Harikrishnan

2.H.Audhish Kumar

for themselves and as the

representative of

Hindu Nadar Samuthayam of Mukkudal

... Petitioners / Petitioners/ Plaintiffs

Vs.

The Executive Officer,

Arulmigu Muthumalaiamman Temple,

Mukkudal Village,

Cheranmahadevi Taluk,

Tirunelveli District.

... Respondent / Respondent / Defendant

Prayer: This Civil Revision Petition is filed Article 227 of the Constitution of India, to set aside the fair and decretal order, dated 04.02.2019, in I.A.No.430 of 2017 in O.S.No.79 of 2017 on the file of the Sub Court, Ambasamudram.



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For Petitioners : Mr.V.Meenakshisundaram

For Respondent : No appearance

ORDER

The revision petitioners are the petitioners / plaintiffs and the respondents herein are the respondent / defendant before the Court below.

2. The instant Civil Revision Petition has been filed against the order, dated 04.02.2019, in I.A.No.430 of 2017 in O.S.No.79 of 2017 on the file of the Sub Court, Ambasamudram.

3. The learned counsel for the revision petitioners would vehemently submit that in a suit filed under a representative capacity and when an application was filed, for seeking permission to pursue the suit under the representative capacity, the petitioners can only implead the persons having the same interest and not the objectors. It is the further contention of the learned counsel for the revision petitioners that if at all if anybody has objection in respect of the application seeking permission to contest the suit in a representative capacity, their only



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remedy is to file an impleading application under Order 1 Rule 10 C.P.C. Therefore, would contend that the order of the Court below, directing the petitioners to implead the objectors as defendant, is erroneous. Hence, prayed to allow the Civil Revision Petition.

4. Despite respondent's name printed, no one is appeared on their behalf.

5. I have given my anxious consideration on either side submissions.

6. The learned counsel for the revision petitioners has raised an interesting issue, however, he would fairly concede that the precedents of this Court is not in his favour. His only contention is that when the objectors are objecting the representative capacity, they should only file impleading application under Order 1 Rule 10 C.P.C, and that they cannot have any objection in under Order 1 Rule 8 C.P.C application, which is only appealing, the persons, those who are having same interest.



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7. Here the words “same interest”, has got significant meaning. The very suit has been filed for on behalf of the Hindu Nadar Samudhayam of Mukkudal Village and sought for a declaration in respect of the property. That property belongs to the Hindu Nadar Samudhayam of Mukkudal Village. Therefore, the interest of the revision petitioners in Order 1 Rule 8 of C.P.C. application and the interest of the objector is upon the Hindu Nadar Samudhayam and its property. However, the objector is having grievance only in respect of the representative capacity of the petitioner. Therefore, the very submission made by the learned counsel for the petitioners that the objector did not have same interest as that of the petitioner cannot be accepted at all.

8. Therefore, the very objections filed by the petitioners is maintainable and in pursuance of the objection, the Court below by referring various judgment of this Court and more particularly, a judgment of this Court held in ***C.R.P.(MD)No.2313 of 2013 (Vellaigounder @ Kuppu Vs. Chinnasevi Gounder)***, dated 09.10.2014,



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has directed the petitioners herein to implead the 16 objectors as the defendants to the suit.

9. In the above judgment, this Court has explained the Order 1 Rule 8 C.P.C and has held that the person having no objection, need not come to the Court. If any person comes with an objection, then it is the duty of the plaintiffs to make them as a party, without driving them on their own, to get themselves impleaded as a party / defendants. Based reliance upon those judgments, the Court below has rightly allowed the application and directed the petitioners herein to implead the objectors as the defendant. This Court could not find any infirmity in the order passed by the Court below.

10. In the result, the instant Civil Revision Petition stands **dismissed**. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Ls

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C.KUMARAPPAN.,J.

Ls

To

- 1.The Sub Court,
Ambasamudram.
- 2.The Executive Officer,
Arulmigu Muthumalaiamman Temple,
Mukkudal Village,
Cheranmahadevi Taluk,
Tirunelveli District.
- 3.The Section Officer,
VR Section, Madurai Bench of Madras High Court,
Madurai.

Order made in
C.R.P(MD)No.905 of 2019

26.09.2023