



C.R.P.(MD)No.1117 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.1117 of 2019

Ayira Vysia Kasukara Chettiyar Uravinmurai

through

1.R.Balaji

2.K.Devasenani

Representatives of

Ayira Vysia Kasukara Chettiyar

Uravinmurai registered Society

... Petitioners / Petitioners/ Plaintiffs

Vs.

1.The State of Tamil Nadu,

represented by its

District Collector,

Collector Office, Sattur road,

Virudhunagar District.

2.The Tamil Nadu Hindu Religious and

Charitable Endowments Department,

represented by its Commissioner,

Office at Nungambakkam High Road,

Chennai.

... Respondents / Respondents / Defendants



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Prayer: This Civil Revision Petition is filed Article 227 of the Constitution of India, against the fair and decretal order of the Subordinate Judge, Aruppukottai, in I.A.No.49 of 2017, in O.S. No.8 of 2017, dated 11.03.2019.

For Petitioners : Mr.S.Madhavan

For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

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

2. The instant Civil Revision Petition has been filed against the order of the Subordinate Judge, Aruppukottai, in I.A.No.49 of 2017, in O.S.No.8 of 2017, dated 11.03.2019.

3. The learned counsel for the revision petitioners would submit that they have filed a suit under representatives capacity in respect of Arulmighu Vinayagar, Subramaniaswamy temple and that they have moved an application under Order 1 Rule 8 C.P.C., seeking



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permission to contest the suit on representative capacity. Whereas the Court below has dismissed the application.

4. Aggrieved with the said order, the revision petitioners is before this Court by way of the instant Civil Revision Petition.

5. The learned counsel for the revision petitioners would submit that the petitioners are the representatives of Ayira Vysia Kasukara Chettiyar Uravinmurai, a registered Society. They further contend that it is too difficult tasks for them to include all the interested person as party to the suit. Hence seeks permission of the Court to conduct suit in representative capacity.

6. Per contra, the learned Government Advocate for the respondents would strongly object the said contention, and would submit that the petitioners have not submitted any records to show that they are the representatives of the Society and that under the guise of filing such application, they are attempting to by pass Section 108 of the HR & CE Act, which is a provision, containing a bar of jurisdiction



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in respect of the denomination temple. Hence, prayed to dismiss the Petition.

7. I have given my anxious consideration to the either side submissions.

8. The main contention put forth by the learned counsel for the revision petitioners is that, the Ayira Vysia Kasukara Chettiyar Uravinmurai, a registered Society has a numerous person, who have the same interest as that of the petitioner. Therefore, prayed permission to sue for the benefit of the persons, who were interested.

9. On perusal of the order of the Court below, this Court could not find any inferences in respect of issuance of public notice as contemplated under the provisions of the C.P.C. However, the Court below has categorically recorded that this petitioners have not submitted any proof to show that they are either the office bearers of the Registered Society or the active members of the Society. Though the Court below has gone into the merits of the main suit, this Court is of



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the view that even on the prima facie consideration, in view of the absence of any record, to show the petitioners legal right to represent the Society, this petition must fail.

10. Therefore, this Court holds that the finding of the Court below is liable to be confirmed.

11. The learned counsel for the petitioners would also submit that while dismissing this application, the Court below has also dismissed the suit as a concomitant. Hence, prayed a liberty to file a fresh suit in his individual capacity. If any fresh suit is filed, the same is directed to be disposed of according to its own merits.

12. Though this Court inclined to dismiss the Civil Revision Petition, this Court deems it appropriate to set aside the cost imposed in the I.A.No.49 of 2017. Therefore, the direction to pay cost is hereby set aside.



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13. In the result, the instant Civil Revision Petition stands **dismissed** as indicated above. There shall be no order as to costs.

NCC : Yes/No
Index : Yes/No
Ls

26.09.2023

To

- 1.The Subordinate Judge,
Aruppukottai.
2. The District Collector,
Collector Office, Sattur road,
Virudhunagar District.
- 3.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Office at Nungambakkam High Road,
Chennai.
- 4.The Section Officer,
VR Section, Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN.,J.

Ls

Order made in
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