



SA.No.1586 of 2001

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

SA.No.1586 of 2001

- 1.The State of Tamil Nadu,
Rep. by District Collector,
Tirunelveli.
- 2.The Commissioner,
HR & CE Admn. Dept.,
Chennai.
- 3.The Deputy Commissioner,
HR & CE, Tirunelveli.
- 4.The Assistant Commissioner,
HR & CE Admn., Tirunelveli - 2.
- 5.The Executive Officer,
A/m. Subramaniya Swamy Temple,
Vallioor.

...Appellants

vs.

- 1.Muthukrishnan (Died)
- 2.Thangavelu @ Perumal (Died)
- 3.Inbamani
- 4.Velkumar
- 5.Kannan



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6.Subashini

7.Poonkani (Died)

8.Ramesh

9.Kanagavel

10.Padmajalatha

11.Rajesh Kumar

12.Ravikumar

13.Krishnakumar

14.Rajasubha

... Respondents

(R3 to R6 are brought on record as LR's of the deceased second respondent vide order of the Court dated 27.12.2002 in CMP.Nos.10080 to 10082 of 2002 in SA.No.1586 of 2001)

(R7 to R14 are brought on record as LR's of the deceased first respondent vide Order of the Court dated 26.10.2016 in CMP(MD)Nos.5606 to 5608 of 2016 in SA.No.1586 of 2001)

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 26.09.2000 in A.S.No. 30 of 1999 on the file of the II Additional District Court, Tirunelveli confirming the Judgment and Decree dated 26.02.1997 in O.S.No.104 of 1996 on the file of the Principal District Munsif Court, Valliyoor.

For Appellants : Mr.R.Baskaran,
Additional Advocate General
Assisted by Mr.A.Kannan



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For Respondents : Mr.M.P.Senthil for R8 to R14

No appearance for R3 to R6

ORDER

The appellants are the defendants. The respondents 1 and 2 are the plaintiffs. The respondents 1 and 2 died and hence their legal heirs are brought on records as respondents 7 to 14 and respondents 3 to 6 respectively.

2. The deceased respondents 1 and 2 / plaintiffs have filed a suit for declaration and injunction against the appellants / defendants in O.S.No.89 of 1990 on the file of the Sub Court, Srivilliputhur. Subsequently, the suit was transferred to the file of the Principal District Munsif Court, Valliyoor and renumbered as O.S.No.104 of 1996. The suit was decreed on 26.02.1997 in favour of the deceased respondents 1 and 2 / plaintiffs. Challenging the Judgment and Decree passed by the Trial Court, the appellants / defendants have filed an Appeal before the Principal District Court, Tirunelveli in A.S.No.30 of 1999. The Appeal



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was heard by the learned II Additional District Judge, Tirunelveli, who dismissed the same on 26.09.2000. Challenging the said dismissal of the Appeal, the appellants / defendants have filed the present Second Appeal before this Court raising the following substantial questions of law.

"(a) Whether the particulars of the suit property is right?

(b) Whether the suit property is individual property and in enjoyment of individual?

(c) Whether the suit is barred by TN Act 22/59?

(d) Whether the plaintiff is eligible for relief claimed for?"

3. On 26.07.2002, this Court had admitted the present Second Appeal on all the above substantial questions of law raised by the appellants / defendants.

4. One S.Balasubramanian and Selvi Manickavasaga Vithaga Vinayaga Vadivoo have filed C.M.P.(MD)No.5447 of 2019 in the present



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Second Appeal seeking to implead themselves as respondents in the Second Appeal, wherein, this Court has passed an order on 27.11.2019 stating that considering the submissions of both counsel and considering the fact that suits are pending before the Trial Court in respect of the title of the property in dispute, the title of the property shall be decided in the suits pending before the Trial Court and the question as to whether the HR & CE Department has right to administer the Temple alone will be decided in the present Appeal.

5. When the matter came up for hearing on 12.04.2023, this Court orally directed the appellants to get instructions as to whether the HR & CE Department is administering the Temple.

6. Today, when the matter is taken up for hearing, the learned Additional Advocate General, on instructions, would submit that HR & CE Department has never taken charge over the administration of the Temple.



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7. Considering the fact that HR & CE Department has never taken charge over the administration of the Temple, nothing survives for consideration in the substantial questions of law formulated by this Court. However, if any change of circumstances arises in future, the appellants are at liberty to take over the administration of the Temple if necessity arises.

8. In view of the above discussion, the Second Appeal is dismissed. However, it is left open to the appellants and the respondents to establish their right and title over the suit property in the pending suits mentioned in the affidavit to C.M.P.(MD)No.5447 of 2019 in S.A.No. 1586 of 2001. No costs.

20.04.2023

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

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To

- 1.The II Additional District Court,
Tirunelveli
- 2.The Principal District Munsif Court,
Valliyoor



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P.VELMURUGAN, J.

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