



C.R.P.(PD)No.1158 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.1158 of 2023

and

C.M.P.No.8047 of 2023

1.R.Palanivelan

2.Marappa Gounder

3.RVR.Senthil

4.Rajesh

5.Vadivel

6.Muthusamy

.. Petitioners

Vs.

1.S.Kanagaraj

2.K.Myilsamy

3.M.Selvarasu

4.K.Rasappan

5.K.Subramani

.. Respondents



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Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the judgment and decree passed in I.A.No.5 of 2023 in O.S.No.199 of 2022, dated 23.03.2023, on the file of the learned District Munsif at Paramathi.

For Petitioners : Mr.K.Karthikeyan

For Respondents : Mr.K.S.Karthick Raja
for M/s.Deepan and Uday

For HR & CE : Mr.N.R.R.Arun Natarajan
for Mr.K.Karthik

ORDER

The present Civil Revision Petition arises against an order passed by the learned District Munsif at Paramathi in I.A.No.5 of 2023 in O.S.No.199 of 2022 dated 23.03.2023.

2. O.S.No.199 of 2022 is a suit for permanent injunction.

3. For the sake of convenience, the parties will be referred to as per their rank in the suit.



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4. Respondent Nos.1 to 5, representing themselves on behalf of the village persons, had presented the suit. According to them, there is a Temple of one Karuppannasamy and other allied deities which is under the control of 240 families in the village. They would state that the said 240 families will appoint a "Dharma Kartha" for the purpose of conducting the festivals in the said Temple.

5. The plaint further proceeds that the 1st civil revision petitioner/1st defendant is the Trustee of one Rajaswamy Temple, which is a separate Temple from Karuppannasamy Temple. They would plead that taking advantage of the fact that he is the Trustee of Rajaswamy Temple, the first civil revision petitioner is attempting to interfere with the activities of Karuppannasamy Temple. They would plead that the matter was referred to a peace committee, and since no proper decision could be arrived at, they came forward with the present suit for injunction restraining the defendants from interfering with the activities of Karuppannasamy Temple.



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6. On being served with the summons, the defendants, representing HR & CE Department, have gone on record and filed a written statement.

Defendant Nos.1 to 6 took out an application in I.A.No.5 of 2023. Their plea was that there is no cause of action for the suit and the same has to be rejected.

7. The learned trial Judge went through the plaint, and came to the conclusion that the suit has a cause of action and dismissed the petition, against which the present Civil Revision Petition has been presented before this Court.

8. Heard Mr.K.Karthikeyan, appearing on behalf of the petitioners, Mr.K.S.Karthick Raja, for M/s.Deepan and Uday, appearing on behalf of the respondents and Mr.N.R.R.Arun Natarajan, for Mr.K.Karthik, appearing on behalf of the HR & CE Department.

9. Mr.K.Karthikeyan would submit that a reading of the plaint shows that there is no cause of action for the suit, and the suit is barred by virtue of Section 108 of Tamil Nadu Hindu Religious and Charitable Endowments



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Act, 1959. Further, the order of the HR & CE appointing him as the Hereditary Trustee for the Temple, which is the subject matter of the suit, has not been challenged, and therefore, he would plead that the suit has to be rejected.

10. Mr.K.S.Karthick Raja would submit that the suit has a cause of action, because the reading of the plaint shows that the plaintiffs are in possession and management of the Temple, and their possession was sought to be interfered with by the civil revision petitioners and hence, they came forward with the present suit.

11. Mr.N.R.R.Arun Natarajan, who is not a party to the revision but who had been called upon to address the arguments, would submit that it is only the HR & CE department which has the jurisdiction under Section 63 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, to declare as to who is the Hereditary Trustee, and this function cannot be carried on by the Civil Court.



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12. I have carefully analyzed the arguments on all the sides and I have carefully gone through the records available.

13. The suit is one for bare injunction. The relief sought is on the basis that the defendant Nos.1 to 6, who are strangers to the Karuppannasamy Temple, are seeking to interfere with the activities of the Temple. It is the case of respondents herein that they are in the management of the Temple and are performing the activities connected there with.

14. While dealing with an application for rejection of plaint, I am only concerned with the averments made in the plaint. The defence that has been or that would taken by the contesting defendants matters not for such an application. As settled by the Supreme Court in series of judgments, I have to take the averments made in the plaint to be true and thereafter, I have to come to a conclusion that whether the suit lacks cause of action or whether it is barred by any law.

15. A reading of the plaint as stated above shows that it is an *inter se* dispute between plaintiff Nos.1 to 5 and defendant Nos.1 to 6. Section 63 of



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the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 empowers the department to do several acts. However, the said Act does not empower the department to decide *inter se* personal disputes between the private parties. The oft-repeated example is that the HR & CE department can declare whether the Temple has the Hereditary Trustee or not, but once the Hereditary Trusteeship is declared, as to who should succeed to the said office cannot be decided by the department, but falls on the civil Court to decide the issue. This is because, the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 grants the power to the authorities to determine the nature of the office alone. Having determined the nature of the office, the issue as to who should succeed to that office cannot be decided by the department.

16. Here is the case where Mr.K.Karthikeyan would submit that he is armed with an order not only passed by the HR & CE department but also passed by this Court in Writ Petition permitting him to conduct the festivities in Karuppannasamy Temple. Unfortunately, for Mr.K.Karthikeyan, in an application for rejection of plaint, I am not in a position to look into the defendants' documents. I can only look into the



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averments made in the plaint and ofcourse, can refer to the plaint documents. I cannot go beyond the four corners of Order VII Rule 11 of the Code of Civil Procedure and look into the documents filed by the defendants. If I were to do so, I will be conducting a mini trial within a trial. Such a course of action is not permissible by virtue of Order VII Rule 11 of the Code of Civil Procedure.

17. A reading of the plaint shows that there are two sets of persons who are vying with each other to claim control of Karuppannasamy Temple. One set has approached the Court seeking injunction and the opposite set is resisting the claim. My reading of the plaint discloses the cause of action and therefore, I am not in a position to accept this submission of Mr.K.Karthikeyan.

18. He would, then, plead that the suit is barred under Section 108 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The position of law had been settled a long time ago under the Hindu Religious Endowments Act (Act II of 1927) by the judgment of *Hon'ble Mr. Justice P.V.Rajamannar* (as his Lordship then was). His Lordship has



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specifically held that the civil Court has jurisdiction to decide whether the particular institution is a public Temple or not. When such a question arises incidental to a dispute in terms of the Act where the department is on one hand and private party on the other, then the civil Court cannot exercise jurisdiction over such a dispute. However, the Section does not bar, either expressly or impliedly, the jurisdiction of the civil Court, when the dispute is not with the Board but with two private parties. This view was taken in the judgment of this Court in ***Thayoth Puthiyapurayil Ayisomma vs. Choolat Puthiyapurayil Kunhali [AIR 1957 MAD 674]***, wherein, the Division Bench of this Court confirmed the judgment rendered by *Hon'ble Chief Justice P.V.Rajamannar* (as his Lordship then was). This was found acceptance in the hand of this Court in the judgment of ***Sri Vallaba Ganesar Devasthanam by Kailasa Mudaliar & Others vs. A.Anandavadivelu Mudaliar & Others [(1980) 1 MLJ 140]***.

19. In the judgment cited by Mr.K.Karthikeyan in the case of ***Arulmigu Madasamy Thirukoil vs. Arulmigu Kombu Madasamy Thirukovil Pettai [(2020) 3 MLJ 729]***, Hon'ble Mr.Justice R.Subramanian specifically held that the bar under Section 108 of the Act applies only if a



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provision has been made under the Act for the resolution of a dispute or determination of a question, then the suit will be barred. My reading of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 does not empower the authorities created under the Act to decide *inter se* disputes between two private persons nor does it empower them to grant an order of injunction at the hands of one set of persons against the other.

20. For the relief of injunction, the only remedy is to approach the civil Court. The jurisdiction of the civil Court unlike the jurisdiction of the Authorities under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is plenary. I should also point out that the objection saying that the suit is barred under Section 108 of the Act was not raised by the civil revision petitioners before the Court below. Nonetheless, since that objection had been raised by Mr.K.Karthikeyan, I am bound to answer the same, and I answered that in the negative.

21. The decision is that the suit for injunction between two private parties is maintainable before the civil Court as there is no provision or mechanism under the Act to determine the said issue.



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22. Insofar the plea that the plaintiffs have not challenged the appointment of the defendants by the HR & CE department is concerned, this is not the matter which can be gone into in the rejection of plaint. The defendants will have to produce the order of appointment along with their written statement and substantiate the appointment before the civil Court. It is not a matter for assumption but a matter for proof. If it is a matter of proof, then the provision of Order VII Rule 11 of the Code of Civil Procedure is inapplicable.

23. In the light of the above discussion, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

29.07.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The learned District Munsif,
Paramathi

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and

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