



C.R.P.(PD)No.2489 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.2489 of 2024

and

C.M.P.No.13028 of 2024

G.Sampath

.. Petitioner

Vs.

Arulmighu Sandhana Vinayagar Thirukoil,
Represented by its Managing Trustee,
R.Gnanasambanthan,
No.84, Old Mambalam Road,
West Saidapet, Chennai – 600 015

.. Respondent

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 29.04.2024, in I.A.No.1 of 2019 in O.S.No.5274 of 2017 on the file of the learned XII Assistant City Civil Judge (FAC) at Chennai.

For Petitioner : Mr.R.Subramanian
for Mr.B.Ravi



C.R.P.(PD)No.2489 of 2024

ORDER

WEB COPY

The present Civil Revision Petition arises against an order passed by the learned XI Assistant City Civil Judge at Chennai (XII Assistant Full Additional Charge) in I.A.No.1 of 2019 in O.S.No.5274 of 2017.

2. O.S.No.5274 of 2017 is a suit filed by Arulmighu Sandhana Vinayagar Thirukoil seeking ejectment of the civil revision petitioner/defendant from the suit schedule mentioned property.

3. It is the case of the plaintiff that the defendant is a tenant under the Temple, and the Temple became the absolute owner of the suit schedule mentioned property by virtue of a partition deed, dated 07.10.1905, bearing Document No.66 of 1906 on the file of the Sub Registrar, Saidapet at Chennai.

4. Between the alleged Managing Trustee of the Arulmighu Sandhana Vinayagar Thirukoil and the civil revision petitioner/defendant, a suit had previously been filed in O.S.No.2878 of 1984. In that suit, the present Managing Trustee, in his personal capacity, along with others claimed that



C.R.P.(PD)No.2489 of 2024

the defendants are their tenants. The suit is said to have been dismissed and the appeal also confirmed.

5. Mr.R.Subramanian would state that a Second Appeal is pending before this Court.

6. On being served with the summons in the suit, an application was taken up for rejection of plaint on the ground that Mr.R.Gnanasambanthan cannot seek the claim contrary to the interest that he previously set up. This application for rejection of plaint came to be dismissed, against which the present civil revision petition has been presented before this Court.

7. Whether R.Gnanasambanthan/the present Managing Trustee of the Temple and the 4th defendant in O.S.No.2878 of 1984 are entitled to represent the Temple is a matter which has to be gone into only at the time of trial.

8. A perusal of the plaint discloses that R.Gnanasambanthan had been appointed as the Managing Trustee of the Temple by the Hindu Religious &



C.R.P.(PD)No.2489 of 2024

Charitable Endowments (HR & CE) Department on 30.08.2012. A reading of the plaint shows that cause of action has been disclosed and therefore, it is not the ground for rejection of plaint.

9. Further, the learned trial Judge had the benefit of perusing the documents that have been filed before him to come to the conclusion that the principles of *res judicata* would not apply because in the previous proceeding, the Temple was not even a party. Therefore, I do not find any reasons to interfere with the order passed by the learned trial Judge as the plaint discloses the cause of action and it is not barred by the principles of *res judicata*.

10. Accordingly, the Civil Revision Petition stands dismissed. No costs. The connected Civil Miscellaneous Petition is closed.

18.07.2024

mkn2

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



WEB COPY



C.R.P.(PD)No.2489 of 2024

V. LAKSHMINARAYANAN, J.

mkn2

To

The learned XII Assistant City Civil Judge (FAC),
Chennai

C.R.P.(PD)No.2489 of 2024

and

C.M.P.No.13028 of 2024

18.07.2024