



WEB COPY



WA No.2295 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.2295 of 2023

1. A.Aruchamy : Appellant

versus

1. The Joint Commissioner,
Hindu Religious Charitable and Endowment Dept.
Balasundaram Road, Coimbatore 600 018.

2. The Assistant Commissioner,
Hindu Religious Charitable and Endowment Dept.
Balasundaram Road, Coimbatore.

3. The Fit Person,
A/m. Angala Parameswariamman Temple,
Light House Road (Kennedy Theatre behind),
Venkatakrishna Road Junction,
R.S.Puram, Coimbatore 641 002.

: Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge in W.P.No.22006 of 2022 dated 22.06.2023.

For Appellant : Ms.V.S.Usharani

For Respondents 1, 2 : Mr.N.R.R.Arun Natarjan,
Spl.G.P. (H.R. & C.E.)

For 3rd Respondent : Mr.Rajesh Vivekananthan



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JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Ms.V.S.Usharani, learned counsel for the appellant, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader, appearing for respondents 1 and 2 and Mr.Rajesh Vivekananthan, learned counsel appearing for the third respondent.

2. The appellant had filed a writ petition bearing No.22006 of 2022, challenging the appointment of a Fit Person to Angala Parameswariamman temple. The said writ petition was dismissed. Aggrieved thereby, the present appeal has been filed.

3. The learned counsel for the appellant submits that the appellant is trustee of Angala Parameswariamman Temple. A fit person was appointed to the said temple without notice to the appellant. The learned Single Judge also came to the conclusion that the Fit Person was appointed without issuing notice; however, dismissed the writ petition only on the ground that an exparte decree is operating against the appellant's father, wherein it was declared that he is not the trustee and he was enjoined from officiating as such. Learned counsel



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submits that the exparte decree is without jurisdiction.

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4. The term 'Court' is defined under Section 6(7) of the Hindu Religious and Charitable Endowments Act (for short, 'the Act'). As per the said definition, for a place other than Chennai, 'Court' would mean the Subordinate Judge's Court and where there is no Subordinate Judge, the District Judge will have jurisdiction. In the instant case, the exparte judgment and decree is passed by the learned II Additional District Munsif, Coimbatore. District Munsif is not a Court recognised under Section 6(7) of the Act. Learned counsel placed reliance upon the following judgments to buttress her contention about the definition of 'Court', and that the judgment delivered by a Court which is not possessing necessary jurisdiction is a nullity:

(i) K.Ramanujam Chettiar vs. Arunachaleswarar Deastanam & Ors.

(CRP Nos.2102 of 1976, dated 16.08.1977)

(ii) Vimal Kishor Shah and ors. vs. Jayesh Dinesh Shah and Ors.

(Civil Appeal No.8164/2016, dated 17.08.2016)

(iii) Rajasekaran vs. Manivasagam & Ors.

(CRP (MD) (PD) No.606/2015, dated 24.09.2018)

(iv) Sri Saranga Desikendra Swamigal Matt vs. Commissioner, HR&CE

(SA (MD) No.1086/2006, dated 18.09.2020)

(v) Ayyasamy vs. Shanmugam, [(2023) 6 MLJ 164]

5. According to the learned counsel for H.R. & C.E. Department,



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even *de hors* the trust deed, the appellant does not have a right and that the *exparte* decree is rightly passed.

6. The term 'Court', as defined under Section 6(7) of the Act would be a Court required to decide the dispute//is arising in respect of matters specified under Sections 59 and 70 of the Act. The instant suit was between two individuals seeking declaration of a trust deed; may be based upon an arbitration award between the parties. The same was not a suit within the meaning of Sections 59 or 70 of the Act. In light of that, the contention that the decree is passed by a court without jurisdiction cannot be sustained.

7. The judgments relied upon by the learned counsel for the appellant are in respect of matters which were filed under the Act and the provisions therein. In the present case, as observed above, the suit was not a suit as contemplated under Sections 59 and 70 of the Act.

8. Be that as it may; learned Single Judge has observed that till



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the exparte decree passed in OS No.1567 of 2009 is set aside in the manner known to law, the appellant cannot claim any right.

9. It is for the appellant to take appropriate steps as may be permissible under law in that regard.

10. With these observations, the writ appeal stands disposed of. There shall be no order as to costs. Consequently, CMP No.19688 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

16.02.2024

Index : Yes/No
Neutral Citation : Yes/No
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