



C.R.P.No.3362 & 3371 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE P. DHANABAL

C.R.P.Nos.3362 & 3371 of 2022

CRP.No.3362 of 2022

Gopalan

... Petitioner

vs.

1. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Ariyalur.

2. The Inspector/Fit Person of
Arulmighu Marghapureeswarar Temple,
Hindu Religious and Charitable Endowment
Department, Ariyalur.

3. Lakshmi Ammal

4. Sellamuthu

... Respondents in CRP.3362 / 2022

Prayer in CRP.No.3362 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.08.2022 in I.A.No.2 of 2021 in A.S.No.24 of 2018 on the file of the Principal Sub-Judge, Ariyalur.



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CRP.No.3371 of 2022

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Gopalan

... Petitioner

vs.

1. Lakshmi Ammal

2. Sellamuthu

3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Ariyalur.

4. The Inspector
Hindu Religious and Charitable Endowment
Department, Ariyalur.

... Respondents in CRP.3371 / 2022

Prayer in CRP.No.3371 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.08.2022 in I.A.No.1 of 2019 in A.S.No.24 of 2018 on the file of the Principal Sub-Judge, Ariyalur.

(In both CRPs')

For Petitioner : Mr. S.Kamadevan

For Respondents
1 & 2 in CRP.3362 of 2022
For Respondents 3 & 4
in CRP.3371 of 2022

: Mr.C.Sathish,
Government Advocate



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COMMON ORDER

These Civil Revision Petitions have been preferred as against the order passed in I.A.No.2 of 2021 in A.S.No.24 of 2018 and I.A.No.1 of 2019 in A.S.No.24 of 2018 on the file of the Principal Sub Judge, Ariyalur, wherein, the respondents 1 & 2 in CRP.No.3362 of 2022 and respondents 1 & 2 in CRP.No.3371 of 2022 have filed a petition before the Trial Court, to implead Hindu Religious and Charitable Endowment Department, Ariyalur as respondents in the appeal suit. Both the impleadment petitions were allowed by the Trial Court.

2. Aggrieved by the said order, the respondent in the Appeal Suit has preferred these Civil Revision Petitions.

3. The brief facts of the petitions filed by the petitioners before the Trial Court are as follows:

This petitioner filed a suit in O.S.No.48 of 2006 for the relief of permanent injunction and the same was decreed in favour of this petitioner by judgement and decree dated 11.07.2018. The defendants in the main suit have preferred the Appeal Suit in A.S.No.24 of 2018 on the file of the Principal Sub-



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Judge, Ariyalur. While pending the appeal suit, the appellants have filed application before the Trial Court in I.A.No.1 of 2019 to implead Hindu Religious and Charitable Endowment Department, Ariyalur as respondents 2 and 3 in the Appeal Suit. The Hindu Religious and Charitable Endowment Department, Ariyalur also filed an application in I.A.No.02 of 2021 in A.S.No.24 of 2018 to implead them as Respondents in A.S.No.24 of 2018. The plaintiff in the main suit filed suit for the relief of Permanent Injunction in respect of the suit properties. Therefore, the Hindu Religious and Charitable Endowment Department is neither proper nor necessary party to the proceedings. But the Lower Court without considering the same allowed the said applications. Therefore, the order passed by the first appellate Court is liable to be set aside.

4. According to the respondents, the subject property is belongs to Hindu Religious and Charitable Endowment Department and thereby they are necessary parties to the proceedings, without their presence the dispute cannot be decided. But, the Plaintiff filed the main suit only as against the private defendants by stating that the subject property is an ancestral property. In the Written Statement, the defendants clearly stated that the property belongs to



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Hindu Religious and Charitable Endowment Department. Therefore, they are the necessary parties to the proceedings, without their presence the dispute cannot be decided. Considering the said facts, the Lower Court rightly allowed the impleading petitions. Therefore, these Civil Revisions Petitions are liable to be dismissed.

5. The learned counsel appearing for the petitioner would contend that this petitioner being the plaintiff in the main suit, filed the suit for permanent injunction. This petitioner is in possession and enjoyment of the suit property. The respondents 1 and 2 in CRP.No.3371 of 2022 and the respondents 3 and 4 in CRP.No.3362 of 2022 have interfered with the plaintiff's peaceful possession and enjoyment of the subject property, thereby this petitioner filed the main suit for the relief of permanent injunction. Further, the Hindu Religious and Charitable Endowment Department is not a proper and necessary parties to the proceedings, since the suit is only as against the respondents 1 & 2 and respondents 3 & 4 in the present Civil Revision Petitions. Therefore, the order passed by the Trial Court is liable to be set aside.

6. There is no representation on the side of the respondents 3 and 4 in



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CRP.No.3362 of 2022 and the respondents 1 and 2 in CRP.No.3371 of 2022.

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7. The learned counsel appearing for the respondents 1 and 2 in CRP.No.3362 of 2022 and respondents 3 and 4 in CRP.No.3371 of 2022 would contend that originally the property belonged to Hindu Religious and Charitable Endowment Department. This petitioner had filed the main suit in O.S.No.48 of 2006 for the relief of permanent injunction as against the private parties by alleging that the subject property is an ancestral property. Since the subject property is originally belonged to Hindu Religious and Charitable Endowment Department, they are also the necessary parties to the proceedings. This petitioner is not an owner of the property and thereby the Hindu Religious and Charitable Endowment Department is a proper and necessary party to contest the suit effectively. The Trial Court also after taking into consideration of the facts and circumstances allowed the said impleading petitions. Therefore, the present Civil Revision Petitions are liable to be dismissed.

8. Heard, the learned counsel appearing for the petitioner and



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respondents 1 and 2 in CRP.No.3371 of 2022 and respondents 3 and 4 in CRP.No.3362 of 2022 and perused the records.

9. In this case, the admitted fact is that this petitioner filed a suit for permanent injunction in respect of the suit properties as against the respondents 1 and 2 in CRP.No.3371 of 2022 and respondents 3 and 4 in CRP.No.3362 of 2022. During trial, the respondents 1 and 2 in CRP.No.3371 of 2022 and respondents 3 and 4 in CRP.No.3362 of 2022 have not taken any steps to implead the Hindu Religious and Charitable Endowment Department. The main suit was decreed in favour the petitioner herein. Thereafter, the defendants in the main suit have preferred the appeal suit. While pending the said appeal suit, they have filed a petition to implead the Hindu Religious and Charitable Endowment Department as respondents in the appeal suit. It is pertinent to note that already Hindu Religious and Charitable Endowment Department official was examined as D.W before the Trial Court. But no one has take steps to implead the Hindu Religious and Charitable Endowment Department before the Trial court as a party to the suit proceedings. In the said suit, the possession of the parties alone to be decided by the Trial court and the title of the subject property has not been decided by the Trial Court. If the



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Hindu Religious and Charitable Endowment Department has any right over the property, it is for them to initiate separate proceedings in accordance with law.

In this case, the main suit was filed by the petitioner herein before the Trial Court is only for the relief of permanent injunction. It is well settled law that the Plaintiff is the dominus litis and he has to decide against whom the relief has to be sought for, and the respondents cannot compel to implead the 3rd parties. In the case on hand, the suit is only as against the private respondents for the relief of permanent injunction and no title could be decided. The cause of action also only as against the private parties and not against the HR & CE department. Therefore, the Hindu Religious and Charitable Endowment Department is neither a proper nor necessary party to the proceedings to decide the appeal suit. Already the Trial Court had decide the suit based on the available evidence. At this stage, the petition cannot be entertained since the prayer is only for bare injunction against the individual defendants.

10. Therefore, the order passed by the first appellate court in I.A.No.1 of 2019 and I.A.No.2 of 2021 by an order dated 26.08.2022 are unsustainable



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and the same are liable to be set aside. Further, the first appellate Court is directed to dispose the said Appeal suit in A.S.No.24 of 2018 within a period of three months from the date of receipt of copy of this order, since the appeal is pending for more than five years.

11. With the above direction, these Civil Revision Petitions are allowed. The order passed by the Principal Sub Judge, Ariyalur in I.A.No.1 of 2019 and I.A.No.2 of 2021 in A.S.No.24 of 2018, dated 26.08.2022 are set aside. No costs.

01.07.2024

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Index :Yes/No

Internet : Yes/No

Neutral Citation :Yes/No

To:

1.The Principal Sub Judge,
Ariyalur

2.The Section Officer,
V.R.Section,
High Court of Madras.

P. DHANABAL, J.



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