



C.R.P.[NPD].No.4841 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 28.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4841 of 2024 & CMP.No.27018 of 2024

Sri Porur Panguni Uthira Palkavadi
Vel Pooja Sabha, Porur, Chennai – 600 116.
represented by its President Sri Damodaran

. . . Petitioner

Versus

The Hindu Religious and Charitable Endowments Board,
Administration Department, Chennai – 600 034
Represented by the Assistant Commissioner

. . . Respondent

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the Order in I.A.No.1 of 2023 in A.S.No.73 of 2015 dated 15.04.2024 on the file of the learned Subordinate Judge Poonamallee by allowing the CRP with cost through.

For petitioner : Mr.M.Tamizavel

Respondent : Mr.P.Gurunathan
Additional Government Pleader



C.R.P.[NPD].No.4841 of 2024

ORDER

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Challenge has been made against the dismissal of the application filed under Order XX Rule 9 to appoint an Advocate Commissioner to identify the property. The said application has been dismissed by the appellate Court since the issue is not with regard to the survey number, but with regard to the temple.

2. Brief background of the case is as follows :

The temple, as a society has filed a suit for declaration that the suit temple viz., Bala Murugan temple is a private temple maintained and administered by the plaintiff. According to the plaintiff, the respondent authorities have no control over the Bala Murugan temple and it is administered and maintained by the society. The said suit has been dismissed on various grounds that already an application has been filed under section 63 of HR and CE Act in O.A. No.2 of 1998. That apart, a fit person has already been appointed by the respondent. As against the dismissal of the suit, an appeal has been filed. Now in the appeal, an application has been filed for



C.R.P.[NPD].No.4841 of 2024

appointment of an Advocate Commissioner to identify the survey number of the temple and measure the same. According to the revision petitioner, the actual survey number is 202 and not 365. Therefore, in order to identify the survey number, the said application has been filed. However, the said application has been dismissed.

3. It is the contention of the learned counsel appearing for the revision petitioner that the respondent took up a plea that the temple is situated in survey No.365. But, according to the revision petitioner, the temple is in survey No.202. Therefore, the revision petitioner sought for appointment of an advocate commissioner to identify the survey number of the temple. However, the trial Court dismissed the said application. Challenging the same, the present revision petition has to be filed.

4. Heard the learned counsel for the petitioner and perused entire materials available on record.



C.R.P.[NPD].No.4841 of 2024

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5. At the outset, this Court is of the view that Order of the appellate Court does not require any interference for the simple reason that identification of the property is not disputed at all. The very issue is claiming right over the property, particularly, the temple Bala Murugan temple alone is in dispute. The plaintiff claim is that it is a private temple. Whereas, the same is disputed by the other side. When the subject matter of the issue is only with regard to the particular temple and there is no issue with regard to the identification of the property, this Court is of the view that appointment of an advocate commissioner to identify the property does not arise at all. Even assuming that if there is any mistake in survey number, the same can be set right by way of filing an application for amendment. Therefore, appointment of an advocate Commissioner will not serve any purpose.

6. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2024



C.R.P.[NPD].No.4841 of 2024

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

The Subordinate Judge, Poonamallee.



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C.R.P.[NPD].No.4841 of 2024

N. SATHISH KUMAR, J.

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C.R.P.[NPD].No.4841 of 2024

28.11.2024