



CRP(MD)No.348 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

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and

CMP(MD)No.1959 of 2020

1.O.M.Muthaiah (Died)
2.Subramanian
3.Palaniyappan (Died)
4.Elangovan
5.Ayyavu
6.K.Ramaiah

... Petitioners/Respondents 1 to 6/Plaintiffs

Vs

1.Meyyanathan

... 1st Respondent/7th Respondent/Defendant

2.Selvaraj
3.Gandhimathi
4.Saraswathi
5.Sathappan
6.Rajendran

... 2nd Respondent/Petitioner/Proposed 2nd Defendant

... Respondents

[R3 to R6 are brought on record as LR's of the deceased 1st petitioner
vide order dated 23.06.2023 in CMP(MD)Nos.7203 to 7205 of 2023]

7.Sali
8.Pandipriya
9.Pandiselvan

... Respondents

[R7 to R9 are brought on record as LR's of the deceased 3rd petitioners
vide order dated 23.06.2023 in CMP(MD)Nos.7206 to 7208 of 2023]



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Prayer:

This Petition is filed under Article 227 of the Constitution of India to call for the records of the learned Principal Subordinate Court, Pudukkottai made in I.A.No.168 of 2019 in O.S.No.307 of 2015 and set aside the Fair and Decretal Order dated 16.10.2019.

For Petitioners : Mr.M.Karthick
for Mr.D.Rameshkumar

For Respondents : M/s.P.Muthukumar
for Mr.N.Balakrishnan for R1 and R2

No Appearance for R3 to R8

ORDER

The Civil Revision Petition is filed to set aside the fair and decretal order passed by the learned Principal Subordinate Court, Pudukkottai made in I.A.No. 168 of 2019 in O.S.No.307 of 2015 dated 16.10.2019.

2.The second respondent is the third party in I.A.No.168 of 2019 in O.S.No.307 of 2015. The said application was filed under Order 1 Rule 10(1) of CPC to implead the second respondent as one among the defendant in the suit. The revision petitioners are the defendants in I.A.No.168 of 2019 and the



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plaintiffs in O.S.No.307 of 2015. The defendants contend that the prayer of the suit in O.S.No.307 of 2015 with regard to the customary right to perform the poojas in their ancestral temple. The third party made an application to implead himself, contending that he also belongs to the same community as that of the plaintiffs.

3.The trial Court after hearing the submissions of the third party, permitted the third party to be the second defendant in the suit. Challenging the said prayer, the present civil revision petition is filed.

4.The learned counsel for the petitioners/plaintiffs contends that it is the customary right for their community to perform the poojas in the temple and that cannot be interfered with by anybody.

5.Per contra, the learned counsel for the respondents 1 and 2 contends that the trial Court, after examining the documents filed by the second defendant, has come to the conclusion that permitting the third party as the second defendant in the suit, the dispute could be resolved.



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6. Heard the learned counsel for the petitioners and the learned counsel for the respondents 1 and 2.

7. The only point for consideration before this Court is whether the trial Court permitting the second defendant, who was originally arrayed as a third party in the present I.A., which is under challenge, is only with regard to claiming the very same right as he belongs to the same community. When the suit was not filed under the representative capacity, the five persons who filed the suit had not made clear how they could maintain a suit in the absence of any application. Though the plaintiffs have a right to amend the plaint, it is for the plaintiffs in the suit to decide accordingly. The trial Court has rightly come to the conclusion that the impleadment of the second defendant in the suit is in accordance with law or not. In view of the same, the trial Court has given a categorical finding that the impleadment of the second defendant in the suit will assist the Court to come to the correct conclusion whether the right is vested with the plaintiffs alone or others. It is a matter for trial before the trial Court to be cross examined by the respective parties. In view of the same, the order passed by the trial Court need not be interfered with.



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8. With the above observations, the Civil Revision Petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

9. Since the suit is of the year 2015, the learned Principal Subordinate Judge, Pudukkottai, is directed to conclude the trial and dispose of the case in O.S.No.307 of 2015 within a period of one year from the date of receipt of a copy of this order, without giving unnecessary adjournments.

27.11.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

sjj

To

The Principal Subordinate Judge, Pudukkottai.



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N.SENTHILKUMAR, J.

sjj

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