



CMP(MD) No.10585 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Civil Appellate Jurisdiction )

Thursday, the Fourteenth day of November Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CMP(MD) No.10585 of 2024

in

AS(MD) No.214 of 2024

MAYANDI ASARI (DIED)

1.JOTHI

2 PANDI SELVI

3 NAGARATHINAM

4 KARTHIGAI SELVI

5 MUTHUKUMAR

6 NANDHINI

... APPELLANTS/PETITIONERS

Vs

1 THE JOINT DIRECTOR

HINDU RELIGIOUS AND CHARITABLE ENDOWMENT,

(DEPARTMENT ADMINISTRATION),

HAVING OFFICE AT

NO.1, WEST CHITHIRAI STREET,

MADURAI - 625 001.

2 THE COMMISSIONER

HINDU RELIGIOUS AND CHARITABLE ENDOWMENT,

(ADMINISTRATION ) DEPARTMENT,

HAVING HIS OFFICE AT

NUNGAMPAKKAM HIGH ROAD,

MADRAS.



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MARIMUTHU ASARI (DIED)

... NIL

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RAKKAMMAL (DIED)

... NIL

3 MANIAMMAL

4 PADMA

5 MAMUNDI ASARI

6 EXECUTIVE OFFICER

ARULMIGU JEYA VEERA ANJANEYA SWAMY TEMPLE,

SIMMAKKAL, MADURAI AND

THE FIT PERSON

ARULMIGU SALAVAI KARUPPANASAMY TEMPLE,

YANAICKAL, MADURAI.

HAVING HIS OFFICE AT TEMPLE PREMISES

ARULMIGU JEYA VEERA ANJENNEYASAMY TEMPLE,

SIMMAKKAL,

MADURAI.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass an order of interim injunction directing the respondents 1, 2 & 6 to vacate the suit property and handed over the possession to the appellants / plaintiffs and also direct the respondents to remove the boards put up by them on the premises of suit property in O.S.No.894 of 1989 on the file of the 1st Additional Subordinate Court, Madurai and pass suitable orders keep status quo as on 13-05-2024 till the disposal of the appeal suit.

Prayer in AS(MD). 214/ 2024 :

To set aside the judgment and decree passed by the 1st Additional Subordinate Court, Madurai in O.S.No.894 of 1989 dated 25-04-2024 and allow this first appeal.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.N.TAMILMANI, Advocate for the petitioner and of MR.M.MUTHUMANICKAM, Government Advocate on behalf of the Respondent Nos.1 & 2 and MR.S.MANOHAR, Advocate on behalf of the 6<sup>th</sup> Respondent, the court made the following order:-



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RESERVED ON : 01.10.2024

PRONOUNCED ON : 14.11.2024

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This Civil Miscellaneous Petition is filed to pass interim injunction directing the respondents to vacate the suit property and handed over the possession to the appellants/plaintiffs and also directing the respondents 1, 2 and 6 to remove the boards put up by them on the premises of the suit property in O.S.No.894 of 1989 on the file of the I Additional Subordinate Court, Madurai and pass suitable orders to keep status quo as on 13.05.2024 till the disposal of the appeal suit.

2. Brief facts of the case:

The appellants/plaintiffs filed a suit in O.S.No.894 of 1989 on the file of the I Additional Subordinate Court, Madurai, against the respondents/defendants for the reliefs of declaration that the suit temple is the private temple belongs to the appellants/plaintiffs and to set aside the order passed by the 1<sup>st</sup> respondent/1<sup>st</sup> defendant, dated 27.05.1985 as the suit temple is the public temple and to set aside the order passed by the 2<sup>nd</sup> respondent/2<sup>nd</sup> defendant in A.P.No.12 of 1986, dated 29.07.1989 as the suit temple is the public temple. The suit was hotly contested by the respondents/defendants. Both parties have adduced their oral and documentary evidences. After considering the evidences and after considering the arguments of

both sides, the suit has been dismissed by the trial Court on 25.04.2024 as the

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plaintiffs have not proved their case. Aggrieved by the judgment and decree, dated 25.04.2024, the plaintiffs have filed the Appeal Suit before this Court. Along with the Appeal Suit, the appellants/plaintiffs have filed this Civil Miscellaneous Petition seeking for injunction.

3.The learned counsel for the petitioners/appellants has submitted that the suit temple is a private temple of the plaintiffs as declared by the then Deputy Commissioner of the HR & CE, Tanjore, in O.A.No.133 of 1957, dated 23.10.1958. Later, the 1<sup>st</sup> defendant suo moto took up proceeding in O.A.No.48 of 1981 and after hearing, passed an order, dated 27.05.1985, that the suit temple is a public one on the basis of the report of the Inspector of the HR & CE. The petitioners preferred A.P.No.12 of 1986 before the 2<sup>nd</sup> respondent /2<sup>nd</sup> defendant and the said case was also dismissed by the 2nd respondent/2nd defendant on 29.07.1989. Aggrieved by the above orders, the petitioners filed a suit in O.S.No.894 of 1989 against the respondents/defendants before the I Additional Subordinate Court, Madurai, for the relief of declaration that the suit temple is the private temple belongs to the petitioners and to set aside the order passed by the 1<sup>st</sup> respondent/1<sup>st</sup> defendant, dated 27.05.1985 as the suit temple is the public temple and to set aside the order passed by the 2<sup>nd</sup> respondent/2<sup>nd</sup> defendant in A.P.No.12 of 1986, dated 29.07.1989 as the suit temple is the public temple. The suit was hotly contested by both sides and



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both parties adduced oral and documentary evidence. After hearing the arguments of both sides, the learned I Additional Subordinate Judge, Madurai has dismissed the suit on 25.04.2024.

4.The learned counsel for the petitioners further submitted that after dismissal of the suit immediately, the petitioners filed copy application and the petitioners have appeal time of 90 days after getting the copy of the judgment and decree from the Court. But in the meantime, on 13.05.2024 the fit person appointed for the HR & CE department for the suit temple came along with coolie workers at about 10.00 a.m. and broke open the door of the temple and entered into the suit temple and dispossed the petitioners from the suit temple and put the board mentioning that the temple belongs to HR & CE department to make the public to believe that the temple is the public temple. The above acts of the respondents are highly illegal and unjustifiable. The petitioners/plaintiffs have proved their case. In earlier appeal, while this Court remanded the appeal, observed that the case of the plaintiffs was proved through Ex.A.1. However, the trial Court did not properly appreciate the evidences. The petitioners have a good chance in the Appeal Suit. Hence, to restore the status quo as on 13.05.2004, this petition has been filed. So, the interim injunction may be granted as prayed for.

5.The learned counsel for the 6<sup>th</sup> respondent has contended that this petition for



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injunction is not maintainable in this appeal suit. The suit temple is not a private temple, it is a public temple, which is governed under the provisions of the Tamil Nadu Act 22 of 1959. The petitioners/appellants have filed A.P.No.12 of 1986 U/s.69 (1) of the Tamil Nadu Act 22 of 1959 and the same was dismissed by the 2nd respondent. The administration of the temple was taken over by the department after following due legal process. The petitioners cannot seek an interim order directing the respondents to vacate the temple when the respondents are acting in the interest of temple. Such a prayer is not maintainable in this petition filed under Order 39 Rule 1 of the Civil Procedure Code. Hence, this petition may be dismissed.

6.Considered both sides arguments and perused the records in this Civil Miscellaneous Petition.

7.The petitioners/appellants have filed the suit against the HR & CE for the relief of declaration that the suit temple is a private temple. Already the suit was dismissed by the trial Court on 30.09.2009 and the petitioners/plaintiffs have preferred the appeal in A.S(MD)No.270 of 2009 before this Court. This Court remanded the matter to the trial Court for fresh trial. After remand, both sides adduced evidences as observed by this Court in A.S(MD)No.270 of 2009 and again dismissed the suit. Now, the petitioners/appellants have challenged the dismissal of the suit again. Admittedly, the respondents/defendants took over the administration



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of the temple after dismissal of the suit and also put up boards in the suit property.

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Of course, the appeal is the continuation of the suit, but the fact remains that the trial Court has come to the conclusion that the suit temple is not a private temple. Hence, whether the suit temple is private or public has to be decided in the appeal, till then the decision of the trial Court holds good. The petition U/s.69(1) of the HR & CE Act, filed by the petitioners/appellants was dismissed and it was also admitted by the petitioners.

8.The petitioners in this interim petition seek direction to the respondents/defendants to vacate the suit temple and to remove the boards put up by them, which is against the HR & CE Act. This petition is filed under Order 39 Rule 1 & 2 of the Civil Procedure Code, whilso such prayer is not maintainable as contended by the respondents. It is for the petitioners/appellants to seek remedy by filing the appropriate petition before the competent authority under Section 144 of the Civil Procedure Code after the final decision of the main case. As of now, the suit temple is declared as a public temple by the Court of law. The adjudication is pending before this Court in the present appeal and has not been reached finality in this Court. The other contentions raised by both parties cannot be decided in this petition and they could be decided at the time of disposal of the appeal. There is no material that the petitioners have been granted an injunction during trial of the main



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suit before the trial Court. Therefore, this Court is of the considered view that the petitioners cannot be entitled to interim relief in this petition and the petition has no merits and the same is liable to be dismissed.

9.In the result, this Civil Miscellaneous Petition is dismissed.

sd/-  
14/11/2024

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/11/2024  
Sub-Assistant Registrar (C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

VSD

TO

THE I ADDITIONAL SUBORDINATE JUDGE, MADURAI.

+1 CC to M/s.N.TAMILMANI, Advocate ( SR-14001[I] dated 14/11/2024 )

ORDER IN  
CMP(MD) No.10585 of 2024  
in AS(MD) No.214 of 2024  
Date :14/11/2024

RS/VR/SAR-(21.11.2024) 8P 3C

Madurai Bench of Madras High Court is issuing  
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