



C.R.P(MD)No.1528 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.1528 of 2022

in

C.M.P(MD)No.6540 of 2024

Arulmigu Mottaiyasamy Kovil
Thiruppuvanam Pudhur
Sivagangai District through its
Managing Trustee.
Uiyanani

... Petitioner

Vs

- 1.Boominathan
- 2.Ravichandran
- 3.The Sub Registrar
Sub Registrar Office,
Thiruppuvanam,
Thiruppuvanam Taluk,
Sivagangai District.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department Office,
No.40, Muthusamy Nagar,
Thiruppathur Road,
Sivagangai District.

... Respondents



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Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow this Civil Revision Petition setting aside the order dated 28.06.2022 made in I.A.No.5 of 2022 in A.S.No.2 of 2021 on the file of Subordinate Court, Manamadurai.

For Petitioner : Mr.R.G.Shankarganesh

For R1 and R2 : Mr.D.R.Murugesan

For R3 and R4 : Mr.M.Ramesh
Government Advocate (Civil)

ORDER

This Civil Revision Petition is filed to allow this Civil Revision Petition setting aside the order dated 28.06.2022 made in I.A.No.5 of 2022 in A.S.No.2 of 2021 on the file of Subordinate Court, Manamadurai.

2. The suit in O.S.No.71 of 2019 was filed by this revision petitioner against the defendants seeking the relief of declaration that the property absolutely belongs to the plaintiff temple and for a consequential recovery of possession, permanent injunction etc. After full trial, the trial Court dismissed the suit. Against which, A.S.No.2 of



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2021 was preferred. Pending the appeal process I.A.Nos.5 and 6 of 2022 were taken out by the petitioner to implead the proposed parties as fourth defendant, namely the Assistant Commissioner, HR & CE Department, Thiruppathur as the fourth defendant in the main appeal on the following facts: The trial Court failed to observe that the appellant was appointed as Managing Trustee, eventhough, the temple is public in nature. It is also erroneously observed that the temple is a private temple Section 109 of the Hindu Religious and Charitable Endowment Act, will not apply. On that account, the HR & CE Department must be added as a party.

3. That was resisted by the respondents by setting out various facts and circumstances, that since already the revision petitioner has stated that there is only a private temple, impleading the officials of HR & CE Department is not required. Even in suits in O.S.No.181 of 2013 and O.A.No.109 of 1959, it was declared that the suit temple is a private temple. After hearing all the parties, the appellate Court dismissed the petition. Against which this revision petition has been preferred.

4. Heard both sides.



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5. Learned counsel for the petitioner would submit that eventhough he filed an application under Section 68 of Tamil Nadu Hindu Religious and Charitable Endowments Act, to declare that the temple is a public temple, it was dismissed. The right of the revision petitioner to continue as a hereditary trustee was recognized. According to him, it is a public temple. Pending the process, now a communication was sent by the department to the petitioner. To decide a temple as a public temple naturally for any cause, the department is a necessary party.

6. Per contra, learned counsel for the private respondents would submit that right from the beginning, it is the case of the revision petitioner that it is only a private temple. So for deciding the issue between the parties, the department is not a necessary party.

7. Learned Government Advocate would submit that now the temple is a public temple. So naturally, for deciding the issue between the parties, the department is a necessary party.

8. Learned counsel for the petitioner would submit that now the



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temple is a public temple not a private temple and he is also admitting the above said position.

9. Reading of the plaint averments indicate that it is stated to be a private temple belong to one Thiruvengkadam Chettiar and his ancestors. The property also belongs to the temple. During the life time of the earlier managing trustees, the properties were mortgaged. After the mortgage period was over now the property is kept vacant. Later, forged documents were created to create right over the properties. The suit in O.S.No.148 of 2009 was filed. Thereafter, it came to the notice of the Court that false documents have been created to make a claim over the properties.

10. Reading of the above said plaint pleadings does not indicate that it is a title dispute between the temple and the private respondents herein. So if an issue with regard to the title over the property is involved, naturally, the department namely, the HR & CE Department is necessary party. On that account, the petition is liable to be allowed.



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11. Accordingly, this Civil Revision Petition is allowed by setting aside the order passed by the Subordinate Court, Manamadurai in I.A.No.5 of 2022 in A.S.No.2 of 2021. No costs. Consequently connected miscellaneous petition stands closed.

06.03.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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To

- 1.The Subordinate Court, Manamadurai.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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