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S.A.(MD).No.561 of 2023

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

S.A.(MD).No.561 of 2023

and

C.M.P.(MD)No.13217 of 2023

Perumal

... Appellant

/Vs./

1.Lavakumar

2.Jayakumar

...Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code against the decree and judgment in A.S.No.3 of 2022 on the file of the Principal Subordinate Judge, Dindigul, dated 03.03.2023, reversing the decree and the judgment, dated 20.10.2021, rendered in O.S.No.73 of 2018, on the file of the Principal District Munsif, Dindigul.

For Appellant : Mr.G.Radhakrishnan

For R1 : Mr.D.Venkatesh

For R2 : No appearance

JUDGMENT

The plaintiff is the appellant herein. The suit was filed claiming that he is the Poosari of the Temple and he is representing the Temple, but in the cause title, it is shown as if he is a private party. In the cause title there is no reference that the suit is filed in representative capacity.



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2. Therefore, before going into the merits of the case and the judgments passed by the Lower Courts, this Court is of the considered opinion that the very framing of the suit itself is wrong.

3. Therefore, this Court is remitting the matter back to the Trial Court for amending the cause title and also to file suit in representative capacity. Hence, the judgment and decree passed by both the Courts are set aside and the matter is remitted back to the Trial Court.

4. With the above said observation, the second appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.03.2024

Index : Yes / No

NCC : Yes / No

Tmg

Note: Issue order copy on 25.03.2024.



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1. Principal Subordinate Judge, Dindigul.
2. Principal District Munsif, Dindigul.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

Judgment made in
S.A.(MD)No.561 of 2023

Dated:
19.03.2024