



C.R.P(PD)(MD)Nos.2357, 2358 and 2359 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

C.R.P(PD)(MD)Nos.2357, 2358 and 2359 of 2019

Subbiah : Petitioner/ Petitioner/3rd Plaintiff

Vs.

1.Ramanathan

2.Manickam

3.Shanmugam

4.Muthu : Respondents/ Respondents/ Defendants

5.The District Collector,

Office of the District Collector,

Sivagangai, Sivagangai District.

6.The Tashildar,

Office of the Tashildar, Devakottai,

Sivagangai District.

7.The Divisional Officer,

Office of the Divisional Officer,

Devakottai,

Sivagangai District. ... 3rd parties/ proposed Respondents 5 to 7 /
proposed Respondents 5 to 7

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decretal order dated 05.09.2019 made in I.A.Nos.3,4 and 5 of 2019 in O.S.No.76 of 2016 on the file of the learned District Munsif Court, Devakottai.



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For Petitioner : Mr.S.Allayn Finto Christopher

For Respondents : Mr.C.Satheesh,

Government Advocate for R5 to R7

ORDER

The Plaintiff is the revision petitioner in all the Civil Revision Petitions. He had filed O.S.No.76 of 2016 before the District Munsif, Devakottai for the relief of permanent injunction that the individual defendants should not interfere in his enjoyment of the suit schedule property in the capacity of hereditary poojari of Sri Kongunattu Kaliyamman Temple. When the suit was pending, the petitioner herein had filed three interlocutory applications, in I.A.Nos.3 to 5 of 2019.

2. I.A.No.5 of 2019 was filed to amend the plaint, so as to incorporate the prayer for declaration of the title in favour of the Government and also for consequential amendments with regard to the valuation of suit and for payment of Court fee. I.A.No.4 of 2019 was filed for impleading the Government officials. I.A.No.3 of 2019 was filed to dispense with the notice as contemplated under Section 80 of C.P.C. All these three applications came to be dismissed by the trial Court. Challenging the same, the present Civil Revision Petitions had been filed.



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3. According to the learned counsel for the revision petitioner / plaintiff, the property in which the temple is located is a Government property. Such a suggestion has been put to him during cross examination of the plaintiff's witnesses. Therefore, such a prayer was sought by way of amending the plaint. He had further contended that the other applications are consequential applications. However, the learned Government Advocate appearing for the Respondents 5 to 7 had contended that the plaintiff in the original plaint had contended that the suit schedule property belonged to the temple and he is in possession of the properties of the said Sri Kongunattu Kalamman temple in the capacity of a hereditary poojari. Therefore, the present amendment application is completely in contrast with the stand taken in the original plaint. Therefore, he prayed for dismissal of the Writ Petition.

4. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on records.

5. A perusal of the plaint in paragraph No.2 as well as in the cause of action paragraph, indicates that the plaintiff has specifically contended that the suit schedule property is the property of Sri Kongunattu Kalamman temple. However, the present application for amendment of plaint has been filed to



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incorporate the prayer for declaration of title that the suit schedule property belonged to the Government. It is not known as to how the plaintiff is intending to seek a prayer for declaration in favour of a third party. That apart, Order - VI Rule 17 C.P.C relating to amendment of pleadings has been amended with effect from 01.07.2002. The suit having been filed on 27.09.2015 is clearly covered by the proviso to Order - VI Rule 17 C.P.C in the present case. Admittedly, three witnesses have already been examined on the side of the plaintiff, when these applications came to be filed by the plaintiff. The plaintiff has not chosen to aver anything about the due diligence for not making such amendments in the plaint at an earlier point of time.

6. In view of the above said facts, the trial Court was perfectly right in dismissing I.A.No.5 of 2019 and other two consequential applications in I.A.No.4 of 20189 and I.A.No.3 of 2019. There are no merits in these Civil Revision Petitions. All the Civil Revision Petitions stand dismissed. No costs.

01.04.2024

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



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- 4.The Divisional Officer,
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Devakottai,
Sivagangai District.
- 5.The Section Officer, V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR.J.

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