



C.R.P. No.631 of 2021

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<i>Reserved On</i>	<i>27.03.2025</i>
<i>Pronounced on</i>	<i>21.05.2025</i>

CORAM:'

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P. No.631 of 2021 and
C.M.P. No.5394 of 2021

The Dadabadi Sri Jin
Kushalsuriji Jin Chandrasuriji Trust
Rep. by its Trustee Mr.Ashok Kumar Jain
No.370, Konnur High Road
Chennai - 600 023

... Petitioner

Vs

- 1.Vikas Bhurat Jain
- 2.The Commissioner
Hindu Religious and Charitable Endowment
No.119, Utamar Gandhi Salai, Nungambakka
Chennai 34
- 3.The District Collector
Singaravelar Maligai
Rajaji Salai, Chennai 1
- 4.The Sub Collector, Tondiarpet
Chennai 81



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5.The Tahsildar, Perambur Tk,
Chennai 23

6.Shree Chandraprabhu Maharaj Juna
Jain Mandhir Trust (Regd)
Rep by its Secretary
No.345, Mint Street, Chennai 79.
(Respondents 2 to 6 impleaded vide court order dated
08.08.2024 made in CM No.13830 of 2022 in CRP
No.631 of 2021) ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 19.02.2020 passed in I.A. No.11100 of 2017 in O.S. No.2171 of 2017 on the file of the II Assistant City Civil Court at Chennai.

For Petitioner : Mr.N.L.Rajah, Senior Counsel
for M/s.BFS Legal

For Respondents : Mr.K.V.Sanjeev Kumar for R1

Ms.R.Anitha, Spl. Govt. Pleader
for R2 to R5

Mr.P.Prithvi Chopra for R6



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ORDER

The present civil revision petition is filed challenging the order passed in I.A.No.11100 of 2017 in O.S. No.2171 of 2017 on the file of II Assistant Judge, City Civil Court, Chennai. The revision petitioner is the 6th defendant in the suit instituted by the 1st respondent/plaintiff.

2. The suit was filed by the 1st respondent/plaintiff for the following reliefs, namely:

a) To declare the transfer of patta effected by the 4th defendant vide patta proceedings No.TR/3424/2010-11, dated 09.03.2011 to the name of 6th defendant Trust as null and void;

b) To declare the 5th and 6th defendant Trust as illegal bodies acting against the interest of the Sri Dadagiri Garden temple and the Jain community;

c) To grant permanent injunction restraining the 5th and 6th defendant Trust and its trustees from trust and its trustees or any person claiming under the Trust from alienating, encumbering or in any way dealing with Sri Dadagiri Garden Temple situate at Door No.369, 370,



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371, Konnur High Road, comprised in Survey No.R.S. No.307/2 in Perambur Taluk;

d) To direct the 1st defendant to appoint an executive officer to Sri Dadagiri Garden Shree Sumathinath Bhagawan temple in Survey No.307/2 situate at Coonoor High Road, Perambur Taluk;

e) To direct the 5th and 6th defendants to pay the cost of this suit and

f) To pass such further or other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. The brief facts are as follows:

i) Shree Chandraprabhu Maharaj Juna Jain Mandir Trust is duly registered by way of a Trust Deed in Doc.No.1003/1987. The said Trust was functioning for the welfare of the Jain community who offer prayers in the temples namely "Shree Chandra Prabhu Maharaj Juna Jain Mandir" and Sri Sumatinath Baghwan Jain Swetamber Mandir" which were constructed in the year 1910 and 1925 respectively.



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ii) The temple had huge properties, which roughly spreads across 151 grounds of land. The objective of the trust is to ensure the benefit to the Jain public in India, without any distinction of caste, creed or colour. The main object of the trust is wholly for religious purposes and administration thereof.

iii) Another Trust came to be formed in the name of “Dadabadi Shree Jin-Kusalsuriji Jin-Chandrasuriji Trust”. There were disputes between the two trusts in the matters pertaining to construction of Shree Sumatinath Bhagawan Jain Swetamber Temple.

iv) Shree Chandrababhu Maharaj Juna Jain Mandir Trust, the 6th respondent herein had filed a suit before the High Court of Judicature at Madras in C.S. No.440 of 2007 for permanent injunction restraining the revision petitioner herein from interfering in the administration, management, construction and any other work relating to the Shree Sumatinath Bhagawan Jain Swetamber Temple.

v) For want of pecuniary jurisdiction, the same was transferred to the City Civil court, Chennai and renumbered as O.S. No.14334 of 2010 on the file of VII Additional City Civil Court, Chennai. The said suit was dismissed for



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non-prosecution and an appeal was filed challenging the said judgment in C.M.A. No.3467 of 2017 and by the order of this court, the suit was restored.

vi) Thereafter, a docket order came to be passed in the said suit by the learned VII Additional Judge, City Civil Court, Chennai on 10.01.2022., which reads as follows:

"Petition seeking leave of the court to be obtained before entering compromise as provided under Order 23, Rule 3B of CPC. Hence, the parties may move the said leave petition before this court. Hence, returned."

vii) The said docket order was challenged before this court in C.R.P.(PD) No.570 of 2022. The compromise entered between "Shree Chandraprabhu Maharaj Juna Jain Mandir Trust" and "Dadabadi Shree Jin-Kusalsuriji Jin-Chandrasuriji Trust", the plaintiff and defendant in O.S. No.14334 of 2010 was placed before this court and by recording the compromise entered into between the parties, this court had set aside the docket order and directed the parties to place the said compromise before the trial court to enable the trial court to pass appropriate orders.



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viii) By judgment dated 04.04.2022, by recording the compromise entered into between both the Trusts, the suit was decreed in terms of the Memorandum of Understanding. Challenging the order passed in C.R.P. (PD) No.570 of 2022, a special leave petition was filed by one J.Rajesh Samdaria. The Hon'ble Supreme Court, by recording the submissions of the petitioner, left it open to the petitioner to file a review before the High Court and disposed of the special leave petition.

ix) Pursuant to the order of the Hon'ble Supreme Court, a review was filed by the said J.Rajesh Samdaria in Review Application No.88 of 2022 and this Court was pleased to dismiss the review by order dated 27.05.2022 on the following terms:

"7. Turning to the present application for review is concerned, after carefully weighing the rival submissions, this court finds:

□That the prayer (b) in the counter claim of the second defendant is the same as the principal prayer in the suit. Now in terms of the compromise, only the plaintiff will be constructing the temple and not the Dadabadi Trust, the first defendant.



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□Secondly, the Review-petitioner/the second defendant is only a member, and this court may not know his locus standi to disturb the compromise which the plaintiff and the first defendant had entered into. And, it is too premature to presume his right to interfere in the compromise now made.

□Thirdly, he has no grievance that the plaintiff trust has no right or status of its own to protect the interest of the temple in question, and his ire is directed only against the first defendant. And, it is this plaintiff trust which has chosen to compromise its dispute with the first defendant trust.

□Fourthly, it is imperative that the interest of both the trusts viz-a-viz the construction of the proposed temple cannot be ignored. This larger interest of the Jain community cannot be allowed to be disturbed at the instance of an individual.

□So far as the counter-claim of the review-petitioner goes, this court doubts the very maintainability of the counter claim, since under Order VIII Rule 6 CPC, the defendant can make a



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counter claim only against the claim or the plaintiff, and not against the co-defendant.

☐ *At any rate there is no error apparent on the face of the record for this court to review its order dated 10.03.2022.*

8. In view of the above, this court does not find any merit in the review application, and it necessarily has to be dismissed. Having stated thus, the trial court having entertained the counter claim of the second defendant/review petitioner, it may have to proceed with that. It is also now required to decide on its maintainability in terms of Order VIII Rule 6 CPC before it proceeds further with that.

9. In the result, subject to what is observed in paragraph 7 above, this court does not find any error apparently on the face of the record for this court to review its order dated 10.03.2022 in CRP(PD) No.570 of 2022, and consequently the review application is dismissed. No costs. The connected miscellaneous petition is closed."



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x) Challenging the said dismissal of the review application, Rajesh Samdaria, filed Petition for Special Leave to Appeal (C) No.17408 of 2022. The same was dismissed by the Hon'ble Supreme Court, leaving it open to the petitioner to pursue his remedies available under law.

4. The learned senior counsel appearing for the revision petitioner pointed out that an Original Side Appeal was filed against the fair and decretal order of this court in A.No.1480 of 2022 in C.S.(D) No.31019 of 2022, in which, the 1st respondent/plaintiff's father was arrayed as the first respondent, wherein, the Hon'ble Division Bench of this Court by narrating the entire sequence of events disposed of the appeal in the following terms:

"17. Considering the factual matrix as outlined above, it is imperative to address the current deadlock revolve around the appellant trust and that, immediate action in the form of conducting elections afresh would be necessary to resolve all the problems arisen between the members of the two sects by establishing a newly constituted trust board and achieve the task of construction of new temple for Shree Sumathinath



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Bhagwan Jain Swethambar, in terms of the Trust deed. The delay in constitution of new trust board would further affect the affairs as well as the management of the properties attached to the appellant trust. Therefore, in order to give quietus to all and also as agreed by both sides, this court issues the following directions:

(i) The appellant trust shall initiate the process of election of all 22 Trustees immediately and conduct the same in accordance with the trust deed.

(ii) The entire election process shall be completed within a period of three months from the date of receipt of a copy of this judgment;

(iii) After the newly elected trustees assumes office, if any dispute arises regarding the management of the trust/construction of the temple in question, the parties are at liberty to approach the civil court for appropriate relief, in the matter known to law."

5. The learned senior counsel appearing for the revision petitioner would contend the following;



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5.1. The first prayer with regard to the transfer of patta effected by the 4th defendant in favour of the 6th defendant cannot be adjudicated by the civil court, as there is a specific bar under Section 14 of the Tamil Nadu Patta Pass Book Act.

5.2. With regard to the second prayer to declare the defendants 5 and 6 as illegal bodies acting against the interest of Sri Dadagiri Garden temple and the Jain community, the learned senior counsel submitted that the plaintiff/ 1st respondent was the member of the Trust, which is D5 and D6 in the suit. Pursuant to the Joint Memorandum of Understanding dated 13.12.2021 between D5 and D6, namely the revision petitioner and 6th respondent herein, the parties agreed to iron out the difference between them and settle the issues amicably.

5.3. With regard to the third prayer seeking for an injunction, the learned senior counsel would contend that the suit will not lie as per the terms of Memorandum of Understanding entered into between the revision petitioner and the 6th respondent dated 13.12.2021.



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5.4. With regard to the fourth prayer on appointment of an Executive Officer to the Temple, the learned senior counsel, by referring to Section 1 of the Hindu Religious and Charitable Endowment Act, submitted that HR&CE Act will not apply to the present suit, as the revision petitioner belong to Jain community and such a prayer cannot be entertained.

6. The learned senior counsel vehemently contended that all the prayers made by the plaintiff cannot be entertained and the initiation of suit is not only an abuse of process of law but is also hit by *res judicata*, as the entire issue has been settled by this court after the dismissal of the Review Application No.88 of 2022.

7. Per contra, the learned counsel appearing for the 1st respondent/plaintiff would contend that there are serious disputes in conducting the temple rituals and he submitted that the initiation of suit is maintainable. While answering the specific question posted by this court with



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regard to the locus of the 1st respondent/plaintiff, he would contend that the amicable settlement between both the Trusts is against the wish of the people belonging to the Jain community at large. Therefore, he has filed the suit as a devotee and as a member of the Jain community.

8. The learned counsel appearing for the 1st respondent/plaintiff had further submitted that he is willing to give up the fourth prayer in the suit with regard to appointment of Executive Officer to Dadabadi Jain Temple Gardens in Survey No.370 situated in Konnur High Road, Perambur Taluk. The said prayer is not amenable under HR&CE Act, as there is an exemption under the Act for the Jain community.

9. The learned counsel would further contend that with regard to first prayer to transfer the patta effected in the name of the 6th respondent/Shree Chandraprabhu Maharaj Juna Jain Mandhir Trust, when a title issue is raised, the plaintiff can maintain the suit and there is no bar for initiating the same and while answering the third prayer that the suit schedule property shall not be



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alienated or encumbered. The 1st respondent/plaintiff contended that the Memorandum of Understanding was against the interest of Jain community and therefore, the suit is maintainable.

10. It is not in dispute that on 14.09.1956, Patta for a larger extent of land (Six Cawnies Seven Grounds 1512 Sqft.) in Survey No.370, Konnur Road, Perambur was issued to Sait Mangal Chand Ji Jabaq as manager of the Jain Temple known as "Sri Dadagiri Garden Temple". The learned counsel appearing for the 1st respondent/plaintiff would contend that the petitioner Trust was formed on 30.12.1983. In the Trust Deed, it has been stated that the trust is operated on a vast campus of 100 grounds, whereas, the patta issued by the Tahsildar dated 14.09.1956, reflects the extent as 151 grounds. The issue on extent of land has to be agitated by producing the relevant document and evidence available on the side of the 1st respondent/plaintiff.

11. The learned senior counsel for the petitioner rightly pointed out that, once patta is granted in the name of the petitioner Trust, there is a procedure



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contemplated under the Patta Pass-Book Act for filing of appeal before the Revenue Divisional Officer and thereafter, if aggrieved, a revision petition can be filed before the District Revenue Officer and thereafter, if aggrieved, against the order of the DRO, a writ petition can be preferred before this Court. However, in the instant case, the plaintiff had sought a prayer before the civil court to declare the patta transferred in the name of the Trust as null and void. Therefore, such a prayer cannot be entertained.

12. As there was a dispute between the two Trusts, a suit was pending in O.S. No.14334 of 2010. Pursuant to the Memorandum of Understanding, the said suit was disposed of and it has reached finality after the dismissal of Review Application No.88/2022. With regard to the other prayers, the learned senior counsel for the petitioner would contend that, as the settlement was entered into between both the Trusts, the member who is a part of the Trust, cannot file the suit contending that the Memorandum of Understanding between both the Trusts had been entered with malafide intention or the object of the Memorandum of Understanding is against the interest of Jain community.



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13. The learned senior counsel for the petitioner had relied upon the following judgments in support of his contention:

(i) *Anitha v. Mohan and Ors. reported in MANU/TN/1741/2017;*

(ii) *Meenakshi v. Marimuthu and others in S.A. No.1349 of 2003 dated 25.01.2019;*

(iii) *Edelweiss asset construction company ltd v. V.R.Perumalsamy and ors reported in MANU/SC/0562/2020;*

(iv) *G.Ramanujam v. State of Tamil Nadu and others in S.A.(MD) No.307 of 2020 dated 21.12.2020;*

(v) *Saroja v. Vijay Chakkaravarthy in C.R.P.(MD) No.1262 of 2021 dated 08.11.2021;*

(vi) *Chairman Madappa v. M.N.Mahanthadevaru and Other reported in (1966) 2 SCR 151;*

(vii) *Swami Paramathamamand Saraswati v. Ramji Tripathi reported in (1974) 2 SCC 695;*

(viii) *Shri Hamid Ahmed v. Shri Asad Mueedicted reported in 2009 SCC Online 2759;*

(ix) *Ashok Kumar Gupta v. Sitalaxmi Sahuwala Medical Trust reported in (2020) 4 SC 321;*



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(x) *Arulmigu Ekambareeswarar and other temple v. Duraisamy and others* decided on 10.08.2011 in S.A. No.476 of 2011;

(xi) *Muthamilselvan v. A.Manickam* reported in 2004 SCC Online Mad 597;

(xii) *Order of the First Bench in W.P. No.1999 of 2021* dated 03.09.2021

14. The learned counsel appearing for the 1st respondent has relied on the following judgments:

(i) *Order in Shree Chandraprabhu Maharaj Juna Jain Mandir Trust in W.P. No.26024 of 2012* dated 25.02.2022;

(ii) *State of Tamil Nadu v. Ramalinga Samigal Madam* reported in (1985) 4 SCC 10;

(iii) *Dhulabhai v. State of Madhya Pradesh and Another* reported in 1968 SCC Online SC 50;

(iv) *Swami Parmatmanand Saraswati and another v. Ramji Tripathi and another* reported in AIR 1974 SC 2141;

(v) *Vidyodaya Trust v. Mohan Prasad and others* reported in 2008 (4) SCC 115;

(vi) *Dahiben v. Aravindbhai Bhanusali and others* reported in AIR Online 2020 SC 634;



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(vii) *Popat and Kotecha Property v. State Bank of India Staff Association* reported in (2005) 7 SCC 510;

(viii) *Sadhana Lodh v. National Insurance Co. Ltd.* and another reported in 2003 (3) SCC 524; and

(ix) *The Director of School Education v. G.Venkatesan* reported in 2004-4-L.W.426

15. Mrs.R.Anitha, the learned Special Government Pleader appearing for the official respondents has produced the entire records relating to Survey No.370 and the Tahsildar was physically present in the court to show that the Patta was transferred in the name of the trust in accordance with law. The learned Special Government Pleader would submit that quit rent was levied in the name of manager of the trust in the year 1952. On 03.02.2011, the petitioner Trust had given an application in Pa.Ma.No. 3424 to transfer the Patta in their name. Based on enquiry and inspection, the Patta to the entire petition scheduled property was changed to the name of the petitioner trust on 09.03.2011.



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16. The law is settled that, once a matter has attained finality, a subsequent suit filed by the parties cannot be entertained in the eye of law, as the suit has come to a logical end. The subsequent suit is barred by principle of *res judicata*. In the present case, O.S. No.14334 of 2010 has come to an end. The present suit in O.S No. 2171 of 2017 is nothing but an abuse of process of law, as the suit is filed to re-litigate the very same facts.

17. The plaintiff being a member of the Trust, which has entered into an amicable settlement by way of a Memorandum of Understanding, is not an exception to the same and he cannot go against the settlement entered into between both the Trusts as per the Joint Memorandum of Understanding dated 13.12.2010 which is recorded in O.S. No.14434 of 2010.

18. In view of the same, the civil revision petition is allowed. The fair and decretal order dated 19.02.2020 passed in I.A. No.11100 of 2017 in O.S. No.2171 of 2017 on the file of the II Assistant City Civil Court at Chennai, is hereby set aside. The Government is at liberty to retrieve the land if conditions imposed by the government including payment of annual permanent rent or



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land tax are violated by the trust. The government shall conduct an enquiry by providing opportunity to all the stakeholders and pass appropriate orders within a period of 6 months from the date of this order. However, there is no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

21.05.2025

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

The II Assistant Judge, City Civil Court, Chennai

N.SENTHILKUMAR, J.



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