



A.S.No.266 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 11.06.2025

Pronounced on: 27.06.2025

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Appeal Suit No.266 of 2022
& C.M.P.No.10008 of 2022

1. P.Subramani,
S/o. Palanisamy Gounder.
R.V.E Nagar street,
Tiruppur Taluk,
Tiruppur District.

2. P.Rathinasamy,
S/o. Palanisamy Gounder,
R.V.E Nagar 2nd street,
Tiruppur Taluk,
Tiruppur District.

3. N.Govindasamy,
S/o. Nachimuthu,
Door No. 31/5.
R.V.E Nagar 3rd street,
Tiruppur Taluk,
Tiruppur District.

4. R.Duraisamy,
S/o. Rakkina Gounder,
D.No.4, R.V.E. Nagar 3rd Street,
Tiruppur Taluk,
Tiruppur District.

... Appellants/Defendants 1 to 4
/versus/

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1. P.Palanisamy,
S/o. Periyasamy gounder,
18, R.V.E. Nagar (North),
Kangayam Road,
Rakkiyapalayam Pirivu,
Tiruppur Taluk,
Tiruppur District.

... 1st Respondent/Plaintiff.

2. Badhurunisha Begam,
Inspector of Police,
Rural Police Station,
Nallur,
Tiruppur District.

... 2nd Plaintiff/5th Respondent

Prayer:- Appeal Suit has been filed under Section 96 of the Civil Procedure Code, pleased to set aside the judgment and decree dated 14.03.2022 made in O.S.No.28 of 2019 on the file of the Learned Principal District Judge, Tiruppur by allowing this appeal suit.

For Appellants : Mr.N.Manoharan
For Respondent : Mr.S.Nambi Arooran

J U D G M E N T

Thiru.P.Palanisamy, the plaintiff in O.S.No.28 of 2019 on the file of Principle District Judge, Tiruppur, is a resident of R.V.E Nagar, Tiruppur. According to the averments in the plaint, he took initiative to construct a Vinayagar Temple in his locality and under his supervision, the Temple was constructed and *Kumbabishegam* was conducted on 26.05.2004. He was chosen



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unanimously by the elders and villagers of the locality as the President of the Executive Committee for the Administration of the Temple. From the year 2004 to 2015, the Temple under his President-ship was functioning smoothly. The daily poojas and the annual ceremonies of the Temple used to be celebrated from the contribution collected from the villagers and his own contribution. The accounts were properly maintained and rendered the public periodically. While so, after 12 years of its first *Kumbabishegam*, the villagers wanted to perform second *Kumbabishegam* for the Temple. At that juncture, the defendants 1 to 4, in order to cause bad reputation to the plaintiff, lodged a complaint to the Commissioner of Police on 20.04.2018 making false allegations of misappropriation. Based on the complaint, the plaintiff was summoned to the Tiruppur Rural Police Station on 26.04.2018 and with the connivance of Inspector of Police (5th defendant), obtained resignation letter under threat. He was put under fear of arrest and malign in newspaper extorted Rs.2,50,000/-. Furthermore, articles and documents of the Temple were forcible taken from his custody.

2. The Police high officials were informed about the high-handedness and abuse of power by the 5th defendant. A legal notice dated 25.10.2018 through



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lawyer was sent to the defendants, calling upon them to tender apology and to return the money, documents and articles that were taken from the plaintiff under threat and force. However, the defendants gave evasive reply. Hence, the suit for declaration that the plaintiff-P.Palanisamy is the President of the Executive Committee of Arulmigu Sri Selva Vinayagar Temple at R.V.E Nagar, Tiruppur and to declare that documents dated 26/04/2018, obtained from the plaintiff at the Tiruppur Police Station of Nallur under coercion as null and void and for compensation of Rs.10,00,000/- for the loss of reputation and also refund of Rs.2,50,000/- recovered from the plaintiff in the Police Station. To declare the Executive Body selected subsequent to the resignation letter obtained from the plaintiff as null and void and for rendition of Temple accounts.

3. The suit was contested by the defendants. In the written statement of defendants 1 to 4, it was contended that the suit is in respect of Administration of the Temple Arulmigu Sri Selva Vinayagar Temple. However, without impleading the Temple, therefore, the suit is bad for non-joinder of necessary party. While they admit that the plaintiff was the President of the Committee till 2015, however the Administration was done by the Committee Members, which



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include the defendants also. It was further contended that the complaint against the plaintiff alleging misappropriation to a tune of Rs.9,00,000/- was made to the police by the villagers and not by the defendants.

4. According to the defendants, the plaintiff voluntarily handed over all the Temple records, funds and got relieved himself from the post of Presidentship and further action. Hence, the suit filed by the plaintiff in his individual capacity for declaring him as President and to declare the Executive Committee as null and void, is not maintainable. The suit ought to have been filed as a representative suit under Order I, Rule 8 of C.P.C.

5. The defendants contends that the plaint is defective without the schedule of the property and verification. The plaint is also bereft of details about how the defendants caused disrepute to the plaintiff. Hence, claim of Rs.10,00,000/- as damages is baseless. The plaintiff voluntarily handed over Rs.2,00,000/- while tendering his resignation. That money admitted the funds of the Temple collected from public. Therefore, the defendants who were the persons in-charge of the Temple had utilised it for the daily affairs of the Temple. Hence,



the plaintiff cannot claim that money back as if it is his money.

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6. The 5th defendant, in her written statement, denied the allegations made against her. According to her statement, as the Inspector of Law and Order at Nallur Police Station, the complaint given by the village elders to the Commissioner of Police was forwarded to her for necessary action. She summoned the villagers and the plaintiff, against whom the complaint was lodged and facilitated the compromise between them.

7. The trial Court, based on the pleadings framed the following issues:-

1. *Whether it is true that the suit is bad for not instituting under Order 1, Rule 8 of C.P.C?*

2. *Whether the suit is bad for non-impleading of the Temple as necessary party?*

3. *Whether the defendants had acted in a way causing disrespect to the reputation of the plaintiff as alleged in the plaint?*

4. *Whether it is true that the plaintiff had retained Rs.9,15,332/- with him from the amount collected for the temple and did not perform his duties as the Head of the*



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temple?

5. Whether the plaintiff is entitled for declaration as prayed for?

6. Whether the plaintiff is entitled for compensatory cost from the defendants for Rs.12,50,000/- as prayed for along with interest?

7. Whether the plaintiff is entitled for return of documents and jewels from the defendants?

8. Whether the plaintiff is entitled for rendition of accounts from the defendants?

9. To what relief the plaintiff is entitled for?

8. On the side of the plaintiff, three witnesses (P.W.1 to P.W.3) were examined and 26 exhibits (Ex.A.1 to Ex.A.26) were marked. On the side of the defendants, three witnesses (D.W.1 to D.W.3) were examined and 4 exhibits (Ex.B.1 to Ex.B.4) were marked.

9. The Trial Court allowed the suit in part. It declared the plaintiff as the President of the Arulmigu Sri Selva Vinayagar Temple. The resignation letter submitted by the plaintiff declared as null and void. The defendants were directed to return the jewels received from the plaintiff within one month and to render



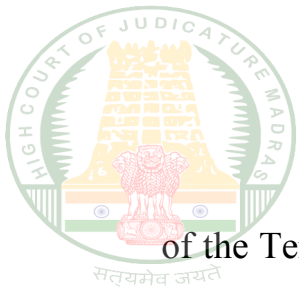
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accounts. A sum of Rs.2,00,000/- collected from the plaintiff was ordered to be returned within one month by the defendants, failing which the defendants would be liable to pay interest at the rate of 7.5% per annum till the date of realisation.

10. Moulding the relief, the trial Court further ordered appointment of an Advocate Commissioner to finalise the members list and to conduct the election for the Temple Management within one month, till then the plaintiff to continue as President.

11. The said judgment and decree is impugned in this appeal.

12. The Learned Counsel for the appellants submitted that, Ex.A.14 the letter of undertaking was not obtained under threat or coercion in the presence of 5th Defendant/Inspector of Police. No evidence has been placed before this Court to substantiate this allegation. P.W-2 did not corroborate the testimony of P.W-1. The other witness for the plaintiff viz., P.W-3 did not turn up for cross examination. A sum of Rs.2,00,000/- handed over by the plaintiff is the collection money and the funds of the Temple. It had been fully utilised for the daily affairs



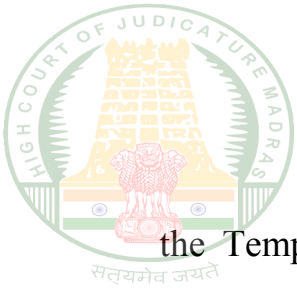
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of the Temple. Neither the Temple nor the Temple Administration Committee is a party to the suit. No list of members or bye-laws to conduct election. Arulmigu Sri Selva Vinayagar Temple at R.V.E Nagar is Administered by an informal group of villagers. A decree to conduct an election for a non-existing office, even without pleadings, is liable to be set aside.

13. On 12/09/2018, *Kumbabiskeham* of the Temple was conducted by the appellants/defendants 1 to 4 along with the villagers. There onwards, the temple is well administrated by the appellants and other villagers peacefully.

14. The suit has been filed without clear prayer and schedule. Only to wreak personal vengeance, the suit is filed for Administering a public Temple in the personal name and not filed in representative capacity and on behalf of the Temple or Villagers.

15. The 1st appellant, R.Subramani, during the course of the hearing the Appeal, had filed an affidavit stating that the plaintiff, in his cross-examination, admitted that the sum of Rs.2,00,000/-, is the value of the articles of



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the Temple and it was purchased from the donation received from the public.

Therefore, according to him, the appellants need not render any account for Rs.2,00,000/- received from the plaintiff on 26.04.2018.

16. Per contra, the Learned Counsel for the respondent/plaintiff submitted that the appellants/defendants 1 to 4 have not allowed the Advocate Commissioner to conduct the election for the Office Bearers of the temple. They are administering the public temple without any authority and they neither rendered accounts for Rs.2,00,000/- nor returned the amount to the plaintiff.

17. Point for consideration:-

Whether the impugned decree granting reliefs not prayed for, based on a finding Ex.A.14 is a document obtained by coercion, is sustainable ?

18. The following reliefs were sought in the suit :-

a) To declare that the plaintiff is the President of Arulmigu Sri Selva Vinayagar Temple at R.V.E Nagar, Tiruppur.



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b) To declare that the letter of the plaintiff dated 26.04.2018, obtained under coercion, as null and void.

c) To direct the defendants 1 to 5 to pay compensation of Rs.2,00,000/- each (Totally Rupees Ten lakhs) for causing damage to his reputation and also to refund Rs.2,50,000/- received by cash, from the plaintiff on 26.04.2018 at the Police Station.

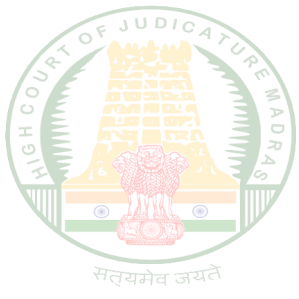
d) To grant mandatory injunction directing the defendants to return all the documents and the articles received from the plaintiff on 26.04.2018.

e) To declare that the present, newly constituted Executive Committee is not a duly elected body and as a consequence, to direct them to hand over the accounts to the plaintiff or a temporary committee.

f) For costs and or any other relief deem fit and necessary.

19. The trial Court considering the evidence, had passed decree as below:-

1. That the suit be and the same is hereby decreed in part, declaring that the plaintiff is the president of the executive committee of R.V.E.Nagar, Arulmighu Sri Selva Vinayakar Temple and the document obtained



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coercively in the police station from the plaintiff with respect to his resignation of the President post of Selva Vinayakar Temple as null and void.

2. That the defendants are hereby directed to return the documents and jewels to the plaintiff within one month and shall render accounts to the plaintiff.

3. With respect to the claim of compensation, the same is negated.

4. That the amount of Rs.2,00,000/- collected from the plaintiff in police station is liable to be returned to the plaintiff within one month by the defendants.

5. With respect to other reliefs claimed the same are negated.

6. That the suit is decreed accordingly by moulding the relief that the plaintiff shall continue as President of the executive committee of Arulmighu Sri Selva Vinayakar Temple of R.V.E.Nagar till election result is declared and new President and office bearers were elected in democratic way.

7. The Court appoints Advocate Thiru.Bakthapragalathan who shall conduct election within 2 months for the temple by taking necessary steps to finalize the members list and to conduct election in choosing the President, Vice President, Secretary,



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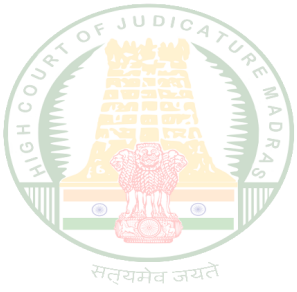
Treasurer and other office bearers.

8. The amount ordered to be refunded by the defendants which shall be duly accounted to the court appointed officer, on being satisfied with the accounts, the amount need not to be refunded.

9. If no proper accounts with bills is filed, the said amount is liable to be refunded by the defendants within two months from the date of order, failing which the plaintiff is entitled for the said amount recovered from the defendant with interest @ 7.5% per annum till the date of realisation.

10. That the defendants be and are hereby directed to pay Rs.37,903/- (Cost List is not filed) to the plaintiff being the cost of the suit.

20. At the outset, this Court is bound to clarify whether the declaration of the plaintiff's status as the President of the Temple and declaration that the new Executive Committee, as null and void in respect of a public temple, can be granted without the Temple idol which is a juristic person/legal entity, made as a party to the suit.



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21. The present suit is laid by the plaintiff not as the representative of the residents of R.V.E Nagar, but as an individual capacity, being aggrieved by the high-handedness of the defendants in usurping the plaintiff status of President of the Temple committee through police.

22. Order I Rule 8 of C.P.C., will apply only in case when there are numerous persons having same interest in one suit. In such cases, one or more persons may, with the permission of the Court, sue or be sued. In this case, the interest of the plaintiff in administering the public temple is alleged to have been disturbed by the defendants. The defendants are not strangers, but some of them are members of the Executive Committee. Admittedly, the temple was constructed from out of the funds collected from the public. It is administered by a group of residents at R.V.E Nagar, who have informally assumed the responsibility. In the absence of formal legal existence of a body of persons as a Society or Association to Administer and represent the temple, recognising anybody as the Administrator of the Temple is not permissible in law.



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23. The Court below taking note of the legal impediment, though declared the status of the plaintiff as President and declared the newly constituted Executive Committee to be null and void, at the same time also issued a direction for conducting election through an Advocate Commissioner within a period of two months, so that the administration of the public temple will be streamlined. The Court below has issued the above direction in exercise of its '*parens patriae*' jurisdiction, to protect the interests of the Idol of Arulmigu Sri Selva Vinayagar Temple, R.V.E Nagar, Tiruppur.

24. Even assuming that, due to the legal impediment, the declaratory reliefs granted not sustainable, the receipt of Rs 2,00,000/- in cash from the plaintiff as a condition to withdraw the complaint of misappropriation being a matter of concern for the plaintiff, he can redress the grievance only in his individual capacity and not otherwise.

25. The entire case is based on the complaint to the police, alleged to have been given by the residence of R.V.E Nagar, reporting misappropriation and the consequential letter of undertaking given by the plaintiff on 26/04/2018. The



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trial Court has held that the plaintiff's letter of resignation and the payment of Rs.2,00,000/- is not a voluntary act. Taking into consideration the evidence, the trial Court has held that the amount of Rs.2,00,000/- is the fund of the temple. Therefore, the defendants either has to render account how this money been utilised for the temple or to return it to the plaintiff for him to spend on the Temple affairs.

26. The plaintiff, through Right to Information Act, had obtained the copy of the complaint given against him in the name of R.V.E Nagar general public. The copy of the RTI application, the response of the Information Officer, with the enclosure of the complaint copy dated 17/04/2018 addressed to the Commissioner of Police, Tiruppur, the statement copy of the plaintiff given to the Inspector of Police, Rural Police Station, Tiruppur on 26.04.2018, and the copy of the letter signed by eight villagers, withdrawing the complaint against the plaintiff are all marked together as Ex.A.16.

27. On examination of documents marked as Ex.A.16, this Court finds that the complaint dated 17/04/2018, in the name of the R.V.E Nagar



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Villagers, alleging that the plaintiff, for the past 1½ years had stopped discharging his role as President of the Temple. It is further alleged that the plaintiff refused to render accounts and preventing others from conducting Temple functions. The complaint also alleges that the plaintiff is threatening to kill those who demand account. This typed complaint, with the names of 11 persons described as Executive Members, is signed only by seven persons, against rest of the names, no signature seen. The 1st defendant P.Subramani, 3rd defendant-N.Govindasamy and the 4th defendant-R.Duraisamy are signatories to this complaint. Though, the name of P.Rathinasamy (2nd defendant) is typed in the letter, he has not signed it.

28. In this suit, the 5th defendant is the Inspector of Police, Rural Police Station, Tiruppur. From the endorsement of the Police Commissioner on the complaint copy and from the written statement of the 5th defendant, it appears that the complaint been forwarded to Rural Police Station for enquiry on 20/04/2018. The 5th defendant has orally summoned both the complainants and the plaintiff. On their appearance on 26/04/2018, the written statement of the plaintiff and the withdrawal letter from the eight persons representing the villagers were obtained thereafter the complaint was closed.



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29. The plaintiff, in his statement dated 26/04/2018 given an undertaking that, henceforth he will not interfere in the affairs of the Temple. The plaintiff has handed over cash of Rs.2,00,000/-, along with the accounts and articles of the Temple to the members of the newly constituted Executive Committee and he will not pursue any legal action in this connection.

30. On behalf of the R.V.E Nagar residents, eight persons have given the letter consenting to withdrawal of the complaint and acknowledging the receipt of the accounts, Cash of Rs.2,00,000/- and articles of the Temple from the plaintiff. The defendants 1 to 4 are signatories to the letter of withdrawal, along with four others.

31. Though, in the complaint, the amount of alleged misappropriation not mentioned, however in their evidence, the defendants alleges that it was to a tune of Rs.9,00,000/-. But no material placed before the Court that the plaintiff has surplus of Rs.9,00,000/- with him. More particularly, when all admit that plaintiff used to tender the accounts periodically, disclosing the names of donors



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and the expenditure, no evidence for misappropriation. Thus, it is obvious, the

plaintiff was forced to part away Rs.2,00,000/- under the threat of ignominy.

Though, admittedly Rs.2,00,000/- is the public money, the defendants cannot extort this money from the plaintiff with the help of the Police, on allegation that he is not ready to render accounts for the income and expenditure. Contrarily, the plaintiff on oath, in his deposition had given an undertaking that if the money is returned back to him, he will spend it for the Temple.

32. In the light of the above facts and circumstances, the *Appeal Suit is partly allowed*. The relief, directing the defendants to refund Rs.2,00,000/- (Rupees Two Lakhs only), to the plaintiff, with interest at the rate of 7.5% per annum, is hereby confirmed. The other reliefs granted by the trial Court are set aside. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

27.06.2025

Index :Yes.

Neutral citation :Yes/No.

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To,

1.The Principal District Judge, Tiruppur.

2.The Section Officer, V.R.Section, High Court, Madras.

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Dr.G.JAYACHANDRAN,J.

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Pre-delivery judgment made in
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