

THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 25.08.2025

Order pronounced on : 04.09.2025

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.2895 of 2025
& CMP.No.16333 of 2025

1.T.M.S.Gunasekaran
2.T.M.A.Iniyan

..Petitioners

Vs.

1.Saminathan

2.State of Tamilnadu
Rep. by its Secretary,
Hindu Religious and Endowment Department,
St.George Fort, Chennai – 600 009.

3.The Commissioner,
Hindu Religious and Endowment Department,
Nungampakkam High Road,
Chennai – 34.

4.The Joint Commissioner,
Hindu Religious and Endowment Department,
Administration Department,
Kottai Mariamman Temple Compound,
Salem – 1.

5.The Assistant Commissioner
Hindu Religious and Endowment Department,
Sri Kannanur Mariamman Temple,
Kottai Mariamman Temple Compound,
Salem – 1.

6.The Executive Officer,



Sri Kannanur Mariamman Temple,
Sri Kailasanathar Kovil Compound,
Tharamangalam Post, Omalur Taluk,
Salem.

7.Tharamangalam Nagara Nanbargal Kulu
Rep. by its President,
Tharamangalam Nagara Nanbargal Kulu,
Tharamangalam Post, Omalur Tk,
Salem.

8.Tharai Eanjai Nanbargal Kulu
Rep. by its President,
Tharai Eanjai Nanbargal Kulu,
Tharamangalam Post, Omalur Tk,
Salem.

9.Tharai Indian Nanbargal Kulu
Rep. by its President,
Tharai Indian Nanbargal Kulu,
Tharamangalam Post, Omalur Tk,
Salem.

10.Ra.Shanthi
The Executive Officer,
Sri Kannanur Mariamman Temple,
Sri Kailasanathar Kovil Compound,
Tharamangalam Post, Omalur Taluk,
Salem.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 01.03.2025 passed in I.A.No.4 of 2024 in O.S.No.105 of 2016 on the file of the District Munsif Court, Omalur.

For Petitioners : Mr.R.Ezhilarasan



For Respondents : Mr.V.Sekar for R1
Mr.N.Muthuvel
Government Advocate for RR2 to 6

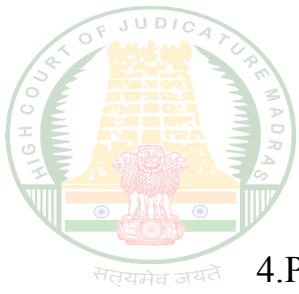
WEB COPY

ORDER

The defendants 6 and 7, who were unsuccessful in their attempt to reject the plaint in IA.No. 4 of 2024, are the revision petitioners herein.

2.I have heard Mr.R.Ezhilarasan, learned counsel for the petitioners, Mr.V.Sekar, learned counsel for the 1st respondent/plaintiff and Mr.N.Muthuvel, learned Government Advocate for the respondents 2 to 6.

3.The learned counsel for the petitioners would submit that the suit has been filed without proper compliance of Section 80 of Code of Civil Procedure and would also contend that the reliefs sought for in the suit are not triable before the civil Court and that the 1st respondent has to approach the authorities under the HR & CE Act. He would further state that though it was claimed by the 1st respondent that Section 80 notice was issued, prior to the institution of the suit, the notice is defective in form and substance and therefore, the plaint ought to have been rejected. However, the trial Court has erroneously proceeded to dismiss the application, holding that the suit is maintainable and a case for rejection has not been made out under Order VII Rule 11 CPC.

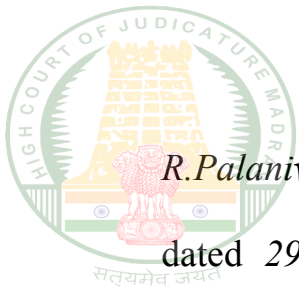


WEB COPY

4.Per contra, Mr. V Sekar, learned counsel for the 1st respondent/plaintiff would first and foremost contend that the trial Court has rightly dismissed the application, finding that Section 80 notice had, in fact, been issued. In any event, he would contend that no relief was sought for against the Government or Government authorities, but the reliefs of injunction was sought for only against the private individuals. He would further state that the reliefs, which are sought for in the suit, cannot be granted by authorities functioning under the Act and therefore, as held by the trial Court, the suit was very well maintainable before the civil Court.

5.The learned counsel for the 1st respondent would also rely on the decision of the Allahabad High Court in *Gaja Vs Dasa Koeri*, reported in *AIR 1964 (ALL) 471*, where the Allahabad High Court held that a bar of Section 80 cannot be pleaded by a person to whom notice was not required to be given. Placing reliance on the said decision, Mr.V.Sekar would contend that it is not open to the defendants 6 and 7 to complain about non compliance of Section 80 CPC.

6.He would also place reliance on the decision of this Court in



R.Palanivelan & others vs S.Kanagaraj & others in CRP(PD).No.1158 of 2023

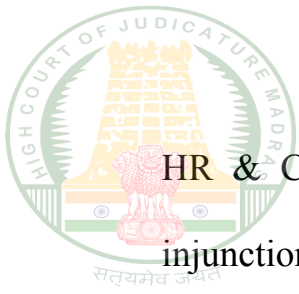
dated 29.07.2024, where this Court, relying on the decision in *Arulmigu*

Madasamy Thirukoil vs Arulmigu Kombu Madasamy Thirukoil Pettai, reported in (2020) 3 MLJ 729, held that the bar of a civil suit under Section 108 of the HR & CE Act would apply, only if a provision has been made under the Act for resolution of a dispute or determination of a question and that the authorities functioning under the Act are not empowered to decide inter se disputes between two private persons or grant an order of injunction at the hands of one set of persons against the other and that the relief of injunction can only be obtained by approaching the competent civil Court. The learned counsel would therefore pray for dismissal of the revision.

7.I have carefully completed the submissions advanced by the learned counsel on either side.

8.The suit, as can be seen from the plaint, seeks for only reliefs of permanent injunction against private individuals. No relief has been sought for against the HR & CE Department or its officials.

9.As held by this Court in *Arulmigu Madasamy Thirukoil's case*, the relief of injunction cannot be granted by the authorities functioning under the



HR & CE Act and the recourse to an aggrieved party seeking a relief of injunction can be only before the competent civil Court. Therefore, on going through the plaint as well the relief sought for being only permanent injunction as against private individuals / parties, I do not see how the bar of the provisions of the HR & CE Act, more specifically Section 108 would come into play and entitle the defendants to seek rejection of the plaint. Even with regard to the non-compliance of Section 80 of CPC, I find from the pleadings of the plaint that the plaintiffs have specifically averred about issuance of a Section 80 notice.

10.Further, as held by the Allahabad High Court in *Gaja's case*, if at all there is a grievance arising out of either non-issuance of the Section 80 notice or the notice issued being defective, then the same can be raised only by the party concerned to whom the Section 80 notice ought to have been issued or is defectively issued. It does not lie in the mouth of the private individuals to take up the cause of the Government authorities and seek rejection of a plaint on the ground of non-compliance of the Section 80 of CPC.

11.In view of the foregoing reasons, I do not find any error committed by the trial Court, warranting interference under Article 227 of the Constitution of



WEB COPY

12. In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

04.09.2025

Speaking/Non-speaking order
Index : Yes/No
ata

To

1. The District Munsif Court, Omalur.

7/9



WEB COPY

2. The Secretary,
Hindu Religious and Endowment Department,
St. George Fort, Chennai – 600 009.

3. The Commissioner,
Hindu Religious and Endowment Department,
Nungampakkam High Road,
Chennai – 34.

4. The Joint Commissioner,
Hindu Religious and Endowment Department,
Administration Department,
Kottai Mariamman Temple Compound,
Salem – 1.

5. The Assistant Commissioner
Hindu Religious and Endowment Department,
Sri Kannanur Mariamman Temple,
Kottai Mariamman Temple Compound,
Salem – 1.

6. The Executive Officer,
Sri Kannanur Mariamman Temple,
Sri Kailasanathar Kovil Compound,
Tharamangalam Post, Omalur Taluk,
Salem.

P.B.BALAJI.J.

ata



WEB COPY



Pre-delivery order made in
CRP.No.2895 of 2025
& CMP.No.16333 of 2025

04.09.2025