



O.S.A.No. 111 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2025

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CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

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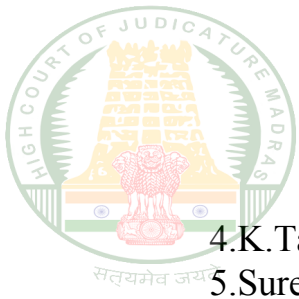
Sri Chandraprabha Jain Swetambar Temple
Through its Managing Body Sri Choolai Bazaar Jain Singh
@ Shri Choolai Jain Sangh
@Shri Choolai Moortipujak Jain Sangh
Sri Sangh Choolai Bazaar
situated at No.38, Venkatachala Mudali Street,
Choolai, Chennai -600 112
and its working committee consisting of
a) Rajendra Kumar Kochar
b) Hemchand Vaid
c) Tarachand Kochar
d) Punamchand Dakalia
e) Lalchand Lunavat alias Milapchand Lunavat
f) Sunilkumar Sancheti
g) Heeralal Golecha
h) Heerachand Nimani
i) Rajendrakumar Kanuga

2.Sri Prakash Chand Golecha

.. Appellants

VS

1.S.Jadav Chand Kanuga
2.Ratan Chand Chhallani
3.G.Ashok Chand Dakalia



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4.K.Tarachand Golecha
5.Suresh Chand Jhabak
6.J.Harak Chand Golecha
7.T.Shanthilal Golecha

.. Respondents

Prayer : Appeal filed under Order XXXVI Rule 1 of O.S. Rules to set aside order dated 28.06.2024 made in O.A.No.39 of 2024 in C.S.No. 1014 of 2008.

For Appellants : Mr.P.Sunil
for Mr.T.Vishwanatha Rao

For Respondents : Mr.Pramod Kumar Chopda
Senior Counsel
for Ms.Dipthimunoth for R6
R1, R2, R3, R3 to R5,
R7 – not ready in notice

JUDGMENT

(Delivered by Dr. ANITA SUMANTH..J)

The appellant is the Sri Chandraprabha Jain Swetambar Temple (in short 'Temple') represented by its Working Committee comprising nine persons, and an other person in an individual capacity.

2. The suit was instituted by seven individuals under Section 92 of the Code of Civil Procedure seeking framing of a Scheme for the management and administration of the Temple, appointment of a Board of Trustees and a direction to the defendants to handover charge of the Temple to the Board of Trustees once constituted by this Court.



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3. The Working Committee of the Temple and another individual are the defendants in C.S.No.1014 of 2008. An application in A.No.457 of 2011 had been filed by R6 and R7, seeking leave to institute a suit. The learned Judge had noted that the cause of action espoused by the applicants was the same as espoused by plaintiffs in C.S.No.1014 of 2008 and they were hence impleaded in the suit. C.S.No.1014 of 2008 thus continues now with seven plaintiffs instead of the original five.

4. Pending suit, O.A.No.39 of 2024 was taken by the 6th plaintiff. The prayer in that application was for an interim injunction restraining the Temple, the Working Committee and R2 from installing the idol of Phalodi Ratna Param Pujya Athyatmayogi Archarya Bhagawant Sri Vijay Kalpurnasurishwarji Maharaj Saheb (in short 'Acharya') in the premises of the Temple. The application had come to be dismissed on 28.06.2024 as against which the present appeal has been filed.

5. The first objection of the appellant is that the suit had been instituted under Section 92 of CPC, which requires two or more Trustees of the Public Trust to approach this Court seeking appropriate relief. Hence, the learned Judge ought not to have entertained an application filed only by a single individual as he does not represent the views of the Jain community.



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6. We had posed a specific query in this regard to Mr.Pramod

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Kumar Chopda, learned Senior Counsel for Ms.Dipthimunothe, learned counsel for R6 and are assured that though the application was filed only by one of the plaintiffs, the views canvassed by him are endorsed by the other plaintiffs as well.

7. In order to satisfy ourselves of this position we had called for the suit and find that it contains an acknowledgement of receipt of the original application upon the other plaintiffs as well. Hence, we draw inference that having received the application and neither contested nor filed an appeal against order of the single Judge dated 28.06.2024, the other plaintiffs do sail with the respondent in this appeal.

8. In any event, we find no hard and fast rule on this score. It is true that Section 92 requires two members of the Board of Trustees to approach this Court seeking relief, including formation of Scheme for management of the assets of a Public Trust. This has been done in this case.

9. It is not, in our view, necessary for a minimum of two members to approach the Court seeking ad interim relief, and in any event, the maintainability of the application has not been contested before the learned single Judge.



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10. Shorn of all details, the prayer of the 6th plaintiff was to restrain the Temple and the other appellants from permitting the installation of the idol of the Acharya in the Temple premises. The said application had come to be allowed by way of impugned order dated 28.06.2024.

11. The learned Judge has opined that permitting the appellants from installing the idol of the Acharya in the Temple premises would not be an appropriate move at this juncture as the Court was seized of the larger issue of framing of a Scheme for the management and administration of the Temple. The installation of the idol of the Acharya involved, inter alia, construction of a small shrine to house the idol and the learned Judge has opined that permitting new construction and installation of idols would hinder the progress of the suit.

12. The appellants represented by Mr.P.Sunil, learned counsel would argue that such findings were erroneous since the Temple had already housed the idol of one Acharya and hence there can be no objection to the installation of another.

13. We have heard the rival contentions carefully. The Temple had been consecrated in the year 1896 and is of the Jain faith. We consciously disavow reference to the particular facts in relation to the constitution of the Temple or its management, since those aspects would have to be tested



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in the course of trial paving the way for framing of a Scheme for its administration.

14. The present Working Committee has been in management for more than 20 years and though there are various allegations against their working, we find that they have been permitted to continue to manage the affairs of the Temple by order of this Court dated 10.07.2005.

15. Hence, it would suffice to say that the unusually long tenure of the Committee and the absence of a democratic process would itself be a pointer to the urgency of a Scheme being framed.

16. The Scheme, is expected to address important issues, including the manner in which elections are to be conducted and whether the idols of Tirthankaras alone are to be housed in the Temple or even those of Acharyas. Such matters must be decided by the members of the Jain community alone and we are thus of the considered view that it was premature for the appellant to have sought installation and consecration of the idol of the Acharya pending such decision.

17. By proceeding to consecrate the idol of Acharya even pending formulation of the Scheme, the appellants had put the cart before the horse that has been rightly checked by way of the Application filed by the respondents and intervention by this Court.



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18. We are not impressed with the argument that a Statute of some other Acharya has already been consecrated in the Temple. What has been done is done. It is for the members of the concerned community and the devotees who worship in the Temple to now take a collective decision on what they wish to do, both in respect of the idol already consecrated as well as in respect of the future.

19. There is certainly some merit in moving forward in a measured manner pending suit, so that all considerations may be weighed in arriving at decisions with the consensus of all community members and without rushing into matters head-long. Incidentally, we may also state that the appellants had sought to consecrate the idol on the eve of the Centenary of the Acharya, in 2024. That exigency has now passed and there is no urgency for any such action to be taken now.

20. Hence, in order to balance the interests of all parties, we of the view that consecration of the idol must await a decision in the suit. Pre-empting such a decision and going ahead with the installation would, we agree, be inappropriate at this juncture. After all, if the members take a decision that favour the installation of idols of Acharyas, such installation may always be undertaken in future.

21. It is a matter of surprise that the Temple is being run for more



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than a century without a proper Committee to oversee the functioning of the same and it is high time that a Scheme is formulated for its administration. We are given to understand that the matter is presently before the IV Additional Master for trial. Let the trial continue unhindered by any of the observations in this order and be completed within a period of three (3) months from date of uploading of this order in the official website of this Court.

22. This Original Side Appeal is dismissed with the aforesaid directions. No costs.

[A.S.M., J] [C.K., J]
01.04.2025

Index:Yes
Speaking Order
Neutral Citation:Yes
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To
The Sub Assistant Registrar,
Original Side,
High Court, Madras.

DR. ANITA SUMANTH.,J.
and



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C.KUMARAPPAN.,J.

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