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CRP.No.4346 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.4346 of 2025

and

CMP.No.22284 of 2025

V.P.Mahalingam

... Petitioner / Petitioner / Defendant

Versus

1. R.Srinivasan

2. R.Radha krishnan

3. B.Gopalakrishnan

4. B.Selvakandan

... Respondents / Respondents / Plaintiffs

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 23.07.2025 in I.A.No.08 of 2025 in O.S.No.332 of 2018 on the file of the first Additional District Munsif, Salem.

For Petitioner

: Mr.U.Gowri Shankar

ORDER

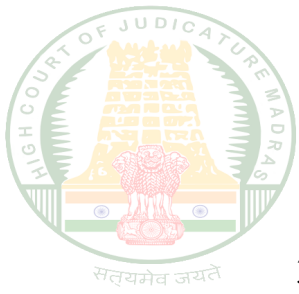
Unsuccessful defendant has preferred the present Civil Revision Petition.



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2. The suit is filed for a permanent injunction to restrain the defendant and his men from interfering in any manner with the plaintiffs' peaceful possession and management of the suit temple and its properties. The defendant has filed a written statement, and the necessary issues were framed. Trial commenced, the plaintiff's side evidence was completed. On the defendant's side, one witness was examined as D.W.1, and the case was posted for further evidence of the defendant's side. At this stage, the defendant filed an application in I.A.No.8 of 2025 in O.S.No.332 of 2018 under Order XVI Rule 1(2) and Section 151 of the CPC, seeking to examine the Executive Officer / Fit person of the Arulmigu Sidtheswara Swamy Temple as a witness. Upon hearing either side, the Court below dismissed the application *vide* order dated 23.07.2025 on the ground that the revision petitioner / defendant very well can avail the certified copies of the documents which is relied by him. Since it is a public documents and it was not necessary to examine the Executive Officer / Fit person as a witness in this case. Aggrieved over the same, the defendant has preferred the present Civil Revision Petition.

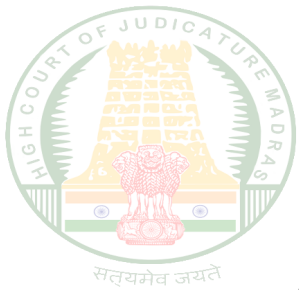


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3. The learned counsel for the revision petitioner would submit that the revision petitioner and others are hereditary trustees and had already filed O.A.No.19 of 2015 under Section 63(b) of the H.R. & C.E Act to declare their hereditary trusteeship. To establish the case of the revision petitioner / defendant , it is necessary to examine the Executive Officer / Fit person of the concerned temple. Without considering the same, the Court below dismissed the application. The impugned order has resulted in a failure of justice, since crucial evidence is being shut out. As a Civil Court is duty- bound to render a fair trial, refusal to summon the custodian of temple records materially affects the defence case.

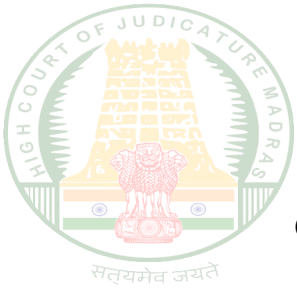
4. It is seen from the plaint that the description of the suit schedule property is as stated below:-

"Arulmigu Chendraya Perumal temple situated at Sivadhapuram Village, Salem Taluk Salem District and its premises in S.No.179/4, punja extent 0.93.0 hectares, S.No.177/6, punja extent 1.38.5 hectares and S.No.82/4, punja extent 0.15.0 hectares."



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5. The suit has been filed for a permanent injunction restraining the defendant and his men from interfering in any manner with the plaintiffs' peaceful possession and enjoyment of the suit temple. In the plaint, it has been stated that the plaintiffs are the poojaries - cum- hereditary trustees of Arulmigu Chendraya Perumal temple. They have already filed a petition in O.A.No.2 of 2017 on the file of the Joint Commissioner H.R&C.E under Section 63(b) of H.R&C.E Act, to get a declaration that they are the hereditary trustees of the suit temple and the same is pending enquiry. After completion of plaintiff side evidence, on behalf of defendant side DW1 was examined in chief and cross and the case was posted for further evidence on the defendant's side. At this juncture, the defendant has filed the application in I.A.No.8 of 2025 in O.S.No.332 of 2018 to examine the Executive Officer / Fit person of the Arulmigu Sidtheswara Swamy Temple as a witness. The burden of proof lies on the plaintiff to prove their case, at this juncture, the reasons assigned by the revision petitioner / defendant to examine the Fit person as a witness is not sufficient and not acceptable one. There is no merit in this petition and the same is liable to be dismissed.



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6. In view of the above, there is no reason to interfere with the order passed in I.A.No.8 of 2025 in O.S.No.332 of 2018, dated 23.07.2025 on the file of the learned I Additional District Munsif, Salem.

7. Accordingly, this Civil Revision petition is dismissed.
Consequently, connected civil miscellaneous petition is closed. No costs.

12.09.2025

av

Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

The learned I Additional District Munsif, Salem.

M. JOTHIRAMAN, J.



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