



C.R..P.(PD)(MD).No.2063 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.2063 of 2022

and

C.M.P(MD) No.9461 of 2022

1. S.Utchimakali

2. V.Govintharaman

3. S.Kuthalam

4. R.Subbaiah

... Petitioners/Petitioners/
Plaintiffs

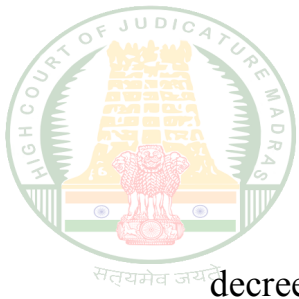
(Petitioners represented on behalf of themselves and on behalf of people who are residing at Gopalamuthram, Velankuzhi, Veeravanallur and Pathamadai and worshipping the lord Sri Arulmighu Karguvel Ayyanar Parivar Theivam)

Vs.

Kombu @ Chellammal

... Respondent/Respondent
Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to allow the Civil Revision Petition by setting aside the fair and



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decreetal order passed in I.A.No.1 of 2021 in O.S.No.110 of 2021, on the file of the I Additional District Court, Tirunelveli, dated 12.07.2022.

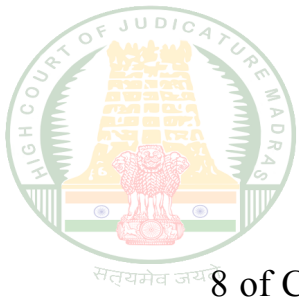
For Petitioners : Mr.H.Arumugam

For Respondent : Mr.M.P.Senthil

ORDER

The plaintiffs in O.S.No.110 of 2021, on the file of the I Additional District Court, Tirunelveli, have filed the present Civil Revision Petition challenging the dismissal of their application filed under Order 1 Rule 8 of C.P.C.

2. The plaintiffs herein have filed the above said suit for the relief of declaration that the suit schedule property and 24 Deities belong to the community of the plaintiffs and the defendant should not interfere with the administration of those 24 Deities. At the time of filing the suit, the long cause title as well as the short cause title reveals that it has been filed in the representative capacity on behalf of Yadava Community people residing in Gopalamuthram, Vellankuzhi, Veeravanallur and Pathamadai and who are the devotees of Karguvel Sastha. However, an application under Order 1 Rule



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8 of C.P.C., was not filed along with the suit. Four days after the filing of the suit, I A.No.1 of 2021 was filed before the trial Court and there was no objection from any one of the general public from the said community. However, the said application came to be dismissed by the trial Court on the following grounds:

- a) The plaintiffs have not pleaded that there is a Trust or Association which administered the temple, which is said to be belonging to the people residing in the above said villagers.
- b) The application having not been filed along with the plaint, is not maintainable, in view of the fact that it has been filed only to fill up the lacuna.
- c) No document has been filed on the side of the plaintiffs that the plaintiffs were given power to representing the villagers.

Challenging the said order, the present Civil Revision Petition has been filed.

3. According to the learned counsel appearing for the revision petitioners, only in cases where there is no registered Organization or Association and the suit is filed on behalf of general public of a particular locality, Order 1 Rule 8 of C.P.C., can be invoked and therefore, the finding of



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the learned trial Judge that there is no registered Trust or Association is not legally sustainable. He further contended that the application under Order 1 Rule 8 of C.P.C can be filed at any stage of the proceedings. He also relied upon the Hon'ble Division Bench judgment of our High Court reported in ***2024 (2) CTC 713 (A.Seshadri and 5 others Vs.Church of South India, represented by its Moderator and 5 others)*** and ***2022 (1) CTC 207 (Kulalar Peravai and others Vs.A.S.S.nataraj and others)***.

4. The learned counsel further pointed out that after paper publication, there was no objection from the Community people residing in the said locality. In such circumstances, the trial Court was not right in arriving at a finding that the plaintiffs have not produced any documents to show that they have been authorized by the general public of that Community.

5. Per contra, the learned counsel appearing for the respondent herein had contended that the petitioners are not the real representative of the people who are worshipping Sri Arulmighu Karguvel Ayyanar Parivara Theivam, which is located at Gopalamuthram and therefore, he prayed for dismissal of this petition.



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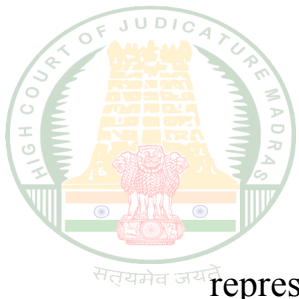
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6. Heard both sides and perused the materials available on record.

7. The application under Order 1 Rule 8 of C.P.C., filed by the plaintiffs is only to represent the general public belonging to a particular community who are residing in a certain locality. In case, if there is a Trust or Association they need not invoke Order 1 Rule 8 of C.P.C. Only in the absence of any organization, the question of invoking under Order 1 Rule 8 of C.P.C., would not arise. Therefore, such a finding of the trial Court is not sustainable.

8. The trial Court has further found that the application has not been filed along with the plaint and therefore, to fill up the lacuna, the present application has been filed belatedly. In view of the Hon'ble Division Bench judgment cited above, the application under Order 1 Rule 8 of C.P.C, can be filed even at the appellate stage. Therefore, the said finding is also not sustainable.

9. The trial Court has further found that the plaintiffs/petitioners have not produced any documents to show that the villagers have given power to



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represent. Only in order to find out whether the plaintiffs/petitioners could represent the villagers, paper publication is contemplated under Order 1 Rule 8 of C.P.C. In the present case, the paper publication has been effected and there is no objection from any one of the people of that community, who are residing in the said locality. In such circumstances, the plaintiffs need not produce any record to establish that they have been authorized by the villagers. Any how, that there was no objections from any one of the villagers and it would show that the plaintiffs have been accepted to be the representative by the villagers who are the devotees of Arulmigu Karguvel Ayyanar Parivara Theivam.

10. Viewed from any angle, the reasons assigned by the trial Court for dismissing the said application are not sustainable in law and the order impugned in the revision petition is set aside. The application filed under Order 1 Rule 8 of C.P.C., is only for the purpose of representing the villagers for the suit and not for I.A.No.1 of 2021.



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11. With the above said observations, this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

21.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The I Additional District Court,
Tirunelveli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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