

C.R.P(MD)No.3086 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 09.12.2024
DELIVERED ON : 06.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.3086 of 2024
and
C.M.P(MD)No.17643 of 2024

1.N.Raja

2.Jeyaprakash

3.Ashok

4.Sankar

... Petitioners

Vs.

1.P.Chellapandi

2.Velusamy

3.Kasimayan

4.Mokkasamy

5.Sathiyamoorthy

6.Ganesan

... Respondents



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order, dated 06.11.2024 made in C.M.A.No.2 of 2024 on the file of the Sub Court, Usilampatti against I.A.No.259 of 2023 in O.S.No.85 of 2023 on the file of the District Munsif Cum Judicial Magistrate No.1, Usilampatti.

For Petitioners : Mr.K.Guhan

For Respondents : Mr.R.Velmurugan
for Mr.P.V.K.Jayachandran

ORDER

This Civil Revision Petition is preferred against the order passed in C.M.A.No.2 of 2024 on the file of the Sub Court, Usilampatti against I.A.No.259 of 2023 in O.S.No.85 of 2023 on the file of the District Munsif cum Judicial Magistrate No.I, Usilampatti.

2. According to the revision petitioners, the revision petitioners as plaintiffs filed a suit in O.S.No.85 of 2023 on the file of the District Munsif cum Judicial Magistrate No.I, Usilampatti for the relief of declaration



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declaring Pappapatti Arulmighu Ochandamman Periya Temple belongs to the plaintiffs and the first defendant for mandatory injunction directing the plaintiffs and the first defendant to act as Periyapoosari in respect of Arulmigu Ochandamman Kovil on rotation basis; to restrain the defendants 2 to 6 to elect the first defendant as Periyapoosari of Arulmigu Ochandamman Periya Kovil and for a direction to elect the Periyapoosari as per law.

3. It is further submitted that the plaintiffs and the defendants are worshippers of the Arulmigu Ochandamman Periya Kovil situated at Pappapatti and it is a private Temple belonging to the Pangalis of the plaintiffs and the defendants. The five poosaris are performing the Kovil Pooja and other activities. The said five poosaris Vagaiyar are worshippers of the said Temple and they belonged to Kutta Ochannan Vagaiyara, Annambari Maya Thevar Vagaiyara, Irattai Veeran Vagaiyara, Moongil Periyakaruppan Vagaiyara and Sivathakaruppan Vagaiyara. Each one person from the said Vagaiyaras are elected to act as Poosari. The Periyapoosari and Chinnapoosari have been elected from the five Vagaiyaras. The said Vagaiyaras were only entitled for Pooja rights. Other Poosaris are having the



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right to lift the traditional box that belong to the Temple. If one of the Periyapoosaris dies, the other Vagaiyara will be elected as Periyapoosari. The said arrangement was reduced into writing on 20.02.1989 by the elders of the plaintiffs and the defendants.

4. It is further submitted that one Ramakrishnan, who belonged to Moongil Periyakaruppan Vagaiyara was the Periyapoosari. The defendants 2, 4, 5 and 6 were lifting the traditional box belonging to the Temple. The fifth defendant belonged to the deceased Ramakrishnan Vagaiyara. The plaintiffs and the first defendant belonging to Sivathakaruppan Vagaiyara. As per the customs and rights of the Pangalis, the plaintiffs and the first defendant elected the Periyapoosari, since the plaintiffs and the first defendant were entitled to elect the Periyapoosari. It is further submitted that in December 2002, the plaintiffs have approached the defendants 2 to 6 and requested to elect the Periyapoosari by lucky draw method or through any other method. But, the first defendant opposed the same and stated that he may be elected as Periyapoosari. Therefore, the defendants 2 to 6 tried to appoint the first defendant as Periyapoosari. Thereafter, a Peace Committee Meeting was conducted on 13.01.2023 before the Tahsildar, Usilampatti



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Taluk. However, no compromise was entered between the parties. Hence, the Tahsildar directed the parties to approach a competent Court.

5. The defendants 2 to 6 have illegally tried to elect the first defendant as Periyapoosari. The plaintiffs have objected to the same. Again, the Peace Committee Meeting was conducted on 27.06.2023 and 28.06.2023 before the Revenue Divisional Officer, Usilampatti. The Revenue Divisional Officer advised the plaintiffs and the first defendant to settle the matter amicably, because the plaintiffs and the first defendant have equal rights to elect the Periyapoosari. But the first defendant refused to accept the proposal of the Revenue Divisional Officer and said that he should be elected as Periyapoosari. The Revenue Divisional Officer ordered to stay all further proceedings. The first defendant tried to occupy the position of the Periyapoosari. Under the said circumstances, the plaintiffs filed the above suit before the District Munsif cum Judicial Magistrate No.I, Usilampatti. In the meantime, the plaintiffs filed an Interlocutory application in I.A.No.259 of 2023 along with the main suit under Order XXXIX, Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 praying for interim injunction restraining the defendants 2 to 6 to elect the first defendant as



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Periyapoosari in Arulmigu Ochandamman Periya Kovil, Pappapatti. The defendants filed their counter affidavit and contested the same.

6. It is further submitted that after conducting an elaborate enquiry on both sides, the learned District Munsif cum Judicial Magistrate No.I, Usilampatti has granted an interim injunction in favour of the plaintiffs. The learned District Munsif cum Judicial Magistrate No.I, Usilampatti has observed already interlocutory application dismissed filed by the first defendant with regard to the first defendant not to act as Periyapoosari for three days from 08.03.2024 to 10.03.2024. The Trial Court has further observed that the compromise talk failed between the parties. Thereafter, the plaintiffs filed a suit. The Trial Court has further observed that the plaintiffs filed main suit praying for declaration, mandatory injunction and permanent injunction with regard to the appointment of Periyapoosari. Aggrieved over the same, the defendants filed appeal in C.M.A.No.2 of 2024 on the file of the Sub Court, Usilampatti. The learned Sub Judge, without considering the merits of the case and relief claimed by the plaintiffs has erroneously allowed the C.M.A. Hence, it is prayed for setting aside the order passed in C.M.A.No.2 of 2024 on the file of the Sub Court, Usilampatti. Aggrieved



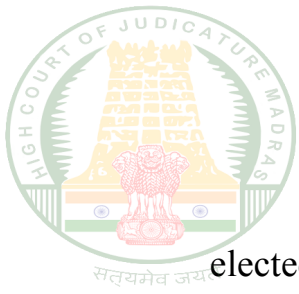
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over the same, the revision petitioners preferring the Civil Revision Petition before this Court.

7. On the other hand, the learned Counsel appearing for the respondents would submit that since the main relief in the suit and the relief claimed in the interim application, the same cannot be granted. Hence, the Appellate Court has rightly dismissed the said appeal which calls for no interference.

8. Heard the learned Counsel for the petitioners and the learned Counsel for the respondents and perused the materials available on record.

9. The suit has been filed by the revision petitioners to declare Pappapatti Arulmigu Ochandamman Periya Temple belongs to the plaintiffs and the first defendant and the mandatory injunction the plaintiffs and the first defendant are acting as Periyapoosari in respect of Arulmigu Ochandamman Periya Temple on rotation basis restraining the defendants 2 to 6 to elect the first defendant as a Periyapoosari of Arulmigu Ochandamman Periya Kovil and further seeking the Periyapoosari should be



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electd as per the law. In the interim application, the revision petitioners seeks for the interim relief restraining the defendants 2 to 6 from electing the first defendant as Periyapoosari of the said Temple till the disposal of the suit. The Trial Court in the interlocutory application in I.A.No.259 of 2023 though granted the above interim relief, the same was reversed by the Appellate Court in C.M.A.No.2 of 2024 on the ground that since the main relief and the interim relief are one and the same, relying on the judgment reported in **2007 (2) L.W 632**.

10. Admittedly, through the interim application, the revision petitioners have sought for the interim relief restraining the defendants 2 to 6 from electing the first defendant as the Periyapoosari of the said Arulmigu Ochandamman Periya Kovil. The same relief is sought in the main suit itself. Therefore, the Appellate Court has rightly dismissed the appeal on the ground that the relief claimed in the main suit and in the interim application is one and the same.

11. In the considered opinion of this Court, no perversity or infirmity found in the order passed by the Trial Court which calls for interference.



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Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

06.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Sub Court,
Usilampatti.
- 2.The District Munsif Cum Judicial Magistrate No.1,
Usilampatti.



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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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06.01.2025