

C.R.P.(MD).No.2735 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 18.06.2024

DELIVERED ON: 27.06.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**C.R.P.(MD).No.2735 of 2023
and CMP(MD).No.14235 of 2023**

Sri Nithyanadha Swami
Nithyanandha Thiyanabeedam
Nithyananthapuri, Kallugopahalii
Bidadi, off Mysore Road, Ramnagar District
Karnataka 562 109
Represented through his power agent
AC Narendran @ Sri Nithyamoksha Priyananda
S/o.A.N.Chandrasedkaran
28, Lady Madavan Road
Chennai 600 034 ..Petitioner/2nd respondent

Vs

1.Sri La Sri Harihara
Sri Gnanasambanda Desigaparamachariya Swamigal
Adheenakartha of Sri Thirugnanasambanda
Swamigal Math @ Madurai Aadheenam
70, South Avanimoola Street
Madurai – 01 ...Respondent/Petitioner

2.The Joint Sub Registrar No.1
Madurai South Registrar Office
Madurai

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3. The Commissioner
Hindu Religious and Charitable Endowments
Development Department,
Door No.119, Uththamar Gandhi Salai
Chennai 600 034

...Respondents /Respondents

PRAYER: The Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for the records of the impugned order dated 10.01.2023 passed in I.A.No.447 of 2021 in O.S.No.1038 of 2012 on the file of the Principal Subordinate Court, Madurai and set aside the same.

For Petitioner : Mr.Isaac Mohanlal
For M/s.Isaac Chamber

For R1 : Mr.B.Saravanan
Senior Counsel
For Mr.R.M,Arun Swaminathan

For R2 : Mr.C.Satheesh
Government Advocate

For R3 : Mr.P.Subbaraj
Special Government Pleader

ORDER

The instant revision petition has been filed by the second defendant in O.S.No.1038 of 2012 on the file of the Principal Subordinate



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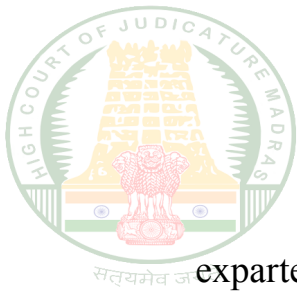
Court, Madurai challenging an order wherein an application filed under Order 6 Rule 17 of C.P.C to amend the plaint has been allowed.

(A)Factual Matrix:

2. 292nd Madurai Aadheenam namely Sri Arunagirinatha Sri Gnanasambanda Desiga Paramachariya Swamigal had filed the above said suit for the relief of declaration that the deed of declaration of trust executed on 12.04.2012 in the first defendant's office is null and void and for further declaration that the notarized declaration affidavit dated 27.04.2012 solemnized by the plaintiff in favour of the second defendant is null and void and consequently, to restrain the second defendant, his men and agents from in any way interfering in the plaintiff's administration and management of the suit property namely Madurai Aadheenam.

3. Pending suit, the 292nd Aathinakartha had attained Mukthi on 13.08.2021 and Sri Harihara Gnanasambanda Desiga Paramachariya Swamigal become the 293rd Aadheenakartha. The successor had filed I.A.No.447 of 20201 in order to amend the plaint to substitute himself in the place of Sri Arunagirinatha Swamigal.

4. The contesting defendant namely the second defendant/revision petitioner herein was called absent and he was set



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exparte in the said amendment application.

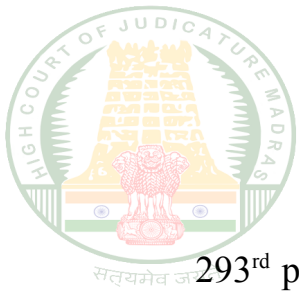
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5.The trial Court had allowed the said application on the ground that it will not change the character of the suit and no prejudice would be caused to the respondents. The trial Court had further found that the successor to the Mutt is being brought on record in the interest of justice and allowed the amendment of cause title and body of the plaint to the said effect. Challenging the same, the present revision petition has been filed.

(B).Submissions of the counsels:

6.According to the learned Senior Counsel appearing for the revision petitioner, during the life of 292nd pontiff, he was declared as the successor and therefore, Sri La Sri Harihara Sri Gnanasambanda Desiga Paramachariya Swamigal cannot be held to be nominated as 293rd successor of Madurai Aadheenam. He had further contended that as soon as the 292nd pontiff had attained mukthi, the position of Aadhinakartha automatically comes in favour of the revision petitioner and no other person can make a claim to the said position.

7.The learned Senior Counsel had further contended that allowing I.A.No.447 of 2021 and permitting Sri La Sri Harihara Sri Gnanasambanda Desiga Paramachariya Swamigal to substitute himself as



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293rd pontiff of Madurai Aadheenam would amount to decreeing the main suit itself and it is not permissible under law. He had further contended that the suit was filed by the 292nd pontiff in his personal capacity and therefore, no right will succeed to the Sri La Sri Harihara Sri Gnanasambanda Desiga Paramachariya Swamigal to file an application in I.A.No.447 of 2021. The learned Senior Counsel had further contended that merely because no counter was filed to amend the plaint, the same cannot be allowed without considering the merits of the said application. He had further contended that the revision petitioner has been nominated as the successor pontiff (293rd) by the 292nd pontiff after following all the religious formalities. Therefore, the said application for amendment ought not to have been allowed. He had further stated that substitution of the first respondent herein as Madurai Aadheenam would really amount to decreeing the suit. Hence, the interlocutory application itself is not maintainable.

8.Per contra, the learned Senior Counsel appearing for the first respondent had contended that the nomination by the plaintiff in the suit has been cancelled and he had been appointed as the successor pontiff and therefore, the second defendant in the suit has no locustandi to question his



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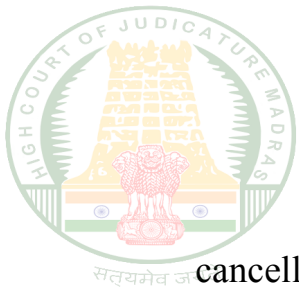
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nomination. He had further contended that the appointment of the first respondent as the 293rd plaintiff has been taken on record by the Commissioner of Hindu Religious and Charitable Endowment Department by his proceedings dated 05.10.2021. In such circumstances, he is legally entitled to get himself substituted as Aadheenam of Madurai Devasdhanam. No prejudice would be caused to the second defendant by way of allowing the amendment application. Hence, he prayed for sustaining the order passed by the trial Court.

9.I have considered the submissions made on either side and perused the material records.

(C)Discussion:

10.It could be seen from the pleadings of either parties that the 292nd pontiff of Madurai Aadheenam namely Sri La Sri Arunagirinatha Swamigal had originally appointed the second defendant as his successor but later when several objections were raised for his appointment by way of filing of various writ petitions and civil suits, the 292nd pontiff had decided to remove the second defendant from the position of his successor. Based upon the above said averments, the suit came to be filed for



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cancellation of the documents under which the 292nd pontiff had appointed the second defendant in the suit.

11. Pending suit, the 292nd pontiff had attained Mukthi on 13.08.2021 and thereafter, Sri La Sri Harihara Sri Gnanasambanda Desiga Paramachariya Swamigal had been appointed as 293rd pontiff of Madurai Aadheenam. The said appointment had been recorded by the Hindu Religious and Charitable Endowment Department also. Therefore, this Court is of the considered opinion that the application for amendment filed by Sri La Sri Harihara Sri Gnanasambanda Desiga Paramachariya Swamigal for substituting himself in the place of 292nd pontiff does not call for any interference.

12. However, it is made clear that the substitution of Sri La Sri Harihara Sri Gnanasambanda Desiga Paramachariya Swamigal in the place of Sri La Sri Arunagirinatha Sri Gnanasambanda Desiga Paramachariya Swamigal is only for the limited purpose of prosecuting the suit and the same would not confer any additional advantage to the Sri La Sri Harihara Sri Gnanasambanda Desiga Paramachariya Swamigal in the suit proceedings. Whether the documents executed by 292nd pontiff are liable to be declared as null and void or whether the appointment of Sri La Sri



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Harihara Sri Gnanasambanda Desiga Paramachariya Swamigal as the 293rd

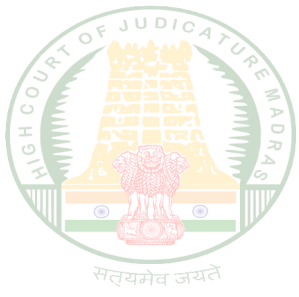
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pontiff is valid or not have to be decided by the trial Court on merits and in accordance with law.

13. With the above said observations, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2024

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

1. The Principal Subordinate Judge,
Madurai
2. The Joint Sub Registrar No.1
Madurai South Registrar Office
Madurai
3. The Commissioner
Hindu Religious and Charitable Endowments
Development Department,
Door No.119, Uththamar Gandhi Salari
Chennai 600 034
4. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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Pre-delivery order made in
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