

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

PRESENT: Thiru. A. DHARANIDHARAN, B.Sc., M.L., M.A., LL.M.

District Munsif, Devakottai

Wednesday, the 17th day of June, 2021

I.A. 14/2021

in

O.S. No. 76/2016

Subbaiah
S/o Karuppan

Petitioner/Plaintiff

Vs

Ramanathan and others

Respondents/Defendants

This petition having been finally heard on 07.04.2021 in the presence of Mr. N. Sekar, the learned counsel for the Petitioner/Plaintiff and Mr. B. Siva, the learned counsel for Respondent/Defendant upon hearing the arguments of both sides and after perusal of the entire records and having stood over for my consideration till this day, this Court delivers the following:

ORDER

This petition was filed by Petitioner under Rule 75 and 76 of Civil Rules of Practice and prays to produce the documents and witness of defendant side evidence.

2. The averments set out in the petition/affidavit filed by the petitioner are as follows:

2.1 The Petitioner states that a suit for permanent injunction was instituted against the defendants and their agents to restrain them and not to interfere into the possession of the Petitioner who acts as the poojari by inheritance at Sri Kongu Naatu Kaaliamman Kovil.

2.2 The Petitioner further states that Sri Kongu Naatu Kaaliamman Kovi comprises of 6 acres of land in Survery No. 228/2. In order to substantiate the same that he is the head pujari of the temple, a membership/identity card was issued by the Government of Tamil Nadu.

2.3 The Petitioner states that he maintains the temple out of the proceeds and performs pooja in the temple. The petitioner states that the survey number and the total extent of the temple premises were entered in the Anumanthakudi Group Settlement land register which was also marked as Exhibit A2.

2.4 The Petitioner states that the respondents deny that the petitioner performs the duty as pujari of Sri Kongu Naatu Kovil by inheritance and contend that duty of the pujari was given on a rotational basis among a list of 9 Pujaris every month.

2.5 The Petitioner further prays that it is necessary to summon Thiru. R. R. Gopalji, President of the Tamil Nadu Poosarigal Peravai to appear before this Court and depose his evidence with respect to the documents of life time membership otherwise the Petitioner may suffer irreparable loss.

3. The averments set out in the counter filed by Respondent is as follows:

3.1 The Respondent/Defendant denies the contention of the Petitioner/Plaintiff and contends that the petitioner had deposed in his examination that there is no document to substantiate that the petitioner is the poojari of the temple by inheritance. The Respondent further contends that the suit should have been instituted before the Hindu Religious and Charitable Endowment and the present petition is liable to be dismissed.

4. Now the point for consideration is whether the petitioner is entitled to get the relief as prayed for?

5. No oral or documentary evidence was adduced on the side of the Petitioner/Plaintiff.

6. No oral or documentary evidence was adduced on the side of the Respondent/Defendant.

7. Arguments heard on both sides. The learned counsels on both sides have contended by reiterating the averments made in the petition, affidavit and counter.

8. On perusal of the records, it comes to know that a suit is instituted for permanent injunction to restrain the defendants and their men from interfering the plaintiffs peaceful possession as Pujari of Sri Kongu Naatu Kaaliamman Kovil by inheritance and costs.

9. This Court feels it is relevant to refer Sec 9 of the CPC which states that *“The Courts shall (subject to the provisions herein contained) have jurisdiction to*

try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation I - A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

10. Hence, this Court is of the considered opinion that the subject matter is civil in nature as per Section 9 of Code of Civil Procedure and this Court is competent enough to entertain and try the main suit and the present petition.

11. In the Result, this Court is inclined to allow this application as prayed for in the interest of justice and orders to summon Thiru. R. R. Gopalji, President of the Tamil Nadu Poosarigal Peravai to appear before this Court and depose his evidence with respect to the documents of life time membership.

In the result, this petition is allowed.

This Order was directly typed by me in my official laptop, corrected by me and pronounced by me in the open Court on this the 17th day of June 2021.

**/ Sd. A. Dharanidharan /
District Munsif,
Devakottai.**

Annexures:

List of witnesses on the side of the Petitioner/Plaintiff

NIL

List of documents on the side of the Petitioner/Plaintiff

NIL

List of witnesses on the side of the Respondents/Defendants

NIL

List of documents on the side of the Respondents/Defendants

NIL

**/ Sd. A. Dharanidharan /
District Munsif,
Devakottai.**

/True Copy/