

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),
VELLORE, VELLORE DISTRICT.**

**PRESENT: Tmt.P.REVATHY, M.A.,M.L.,
Additional District Judge(FTC),Vellore.**

Dated this the 15th day of December 2022, Thursday

**I.A.NO.3/2022 in
O.S.NO.91/2020**

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Arulmigu Kasi Vishwanathar Temple
Big Vaniyar Street, Nadupet,
Gudiyattam Town, Vellore District
represented herein by its Hereditary Trustee
S.Sivakumar

..Petitioner/Plaintiff

//Vs//

1. A.Nagaraj
2. A.Ramesh
3. A.Babu
4. A.Sundaram
5. S.Nataraj Achari
6. N.Yuvaraj

..Respondents/Defendants

This petition is coming before me on 14.12.2022 for final hearing in the presence of Thiru.G.Jayachandran and Thiru.M.V.Swamy, Counsels for the petitioner and of Thiru.B.Yayathi Rajan, counsel for the respondents No.1 to 6 and upon hearing the arguments of both sides and upon perusing the entire case records and having stood over for consideration, till this date this court delivered the following;-

ORDER

Petition filed by the petitioner under Order 6, Rule 17 and Sec.151 of CPC, prays to permit the petitioner to carry out the amendment as per order in I.A.No.2/2022 dated 24.08.2022.

2. Brief averments of the affidavit is as follows:-

The petitioner herein is the son of the petitioner's Temple Ex-Hereditary Trustee R.N.Subramaniyan who died on 03.02.2021 due to old age, leaving behind the petitioner herein and two sons and one daughter who are all residing else where and gave consent to be the next Hereditary Trustee of the Plaintiff Temple. The petitioner was already appointed as Hereditary Trustee by the HR and CE Department for the Plaintiff Temple. For that the petitioner already filed petition in I.A.No.2/2022 in this suit and the same was allowed by this court on 24.08.2022 by inserting his name as Hereditary Trustee for the Plaintiff Temple instead of his father R.N.Subramaniyan. Hence, the petitioner filed this petition and prays to allow the petition.

3. Brief averments of the counter filed by the respondents No.1 to 6 is as follows:

This petition is not maintainable either in law or on facts. All the affidavit averments are denied except those that are admitted by the respondent herein. The respondents have already filed written statement in the suit denying the post of Hereditary Trustee by R.N.Subramaniyan, since there is no hereditary Trustee post in the Plaintiff Temple and he is not legally appoint as hereditary Trustee. Further, the alleged appointment of hereditary trustee is obtained by playing fraud and misrepresentation by the R.N.Subramaniyan to file the suit. Hence, it is not legally valid and sustainable. Since the petitioner's father's alleged appointment of the Hereditary Trustee is in dispute this petition to substitute the petitioner as Hereditary Trustee is not sustainable and the same is liable to be

dismissed. The petitioner has not produced any document to show that the legal heirs of the deceased R.N.Subramaniyan has gave consent to him to be the Hereditary Trustee of the Plaintiff Temple. Without production of legally valid and acceptable documentary evidence and proving same this petition is not maintainable and the same is liable to be dismissed. The petition in I.A.No.2/2022 was allowed by this court stating that the petitioner has given application for appoint him as Hereditary Trustee of the Temple before HR & CE the same was not specifically denied with necessary particular hence interest of justice the said petition was allowed. Hence the petitioner's allegation that he was appointed as Hereditary Trustee of the Temple by HR & CE is false and prays to dismiss the petition.

4. The point for consideration in this petition is;

Whether the petition is to be allowed or not?

5. Point:

The petitioner stated that he is the son of the petitioner's Temple Ex-Hereditary Trustee R.N.Subramaniyan who died on 03.02.2021 due to old age, leaving behind the petitioner herein and two sons and one daughter who are all residing else where and gave consent to be the next Hereditary Trustee of the Plaintiff Temple. The petitioner was already appointed as Hereditary Trustee by the HR and CE Department for the Plaintiff Temple. For that the petitioner already filed petition in I.A.No.2/2022 in this suit and the same was allowed by this court on 24.08.2022 by inserting his name as Hereditary Trustee for the

Plaintiff Temple instead of his father R.N.Subramaniyan. Accordingly the Plaint has to be amended.

But the respondents denied the allegations and stated that the respondents have already filed written statement in the suit denying the post of Hereditary Trustee by R.N.Subramaniyan, since there is no hereditary Trustee post in the Plaintiff Temple and he is not legally appoint as hereditary Trustee. Further, the alleged appointment of hereditary trustee is obtained by playing fraud and misrepresentation by the R.N.Subramaniyan to file the suit. Hence, it is not legally valid and sustainable. Since the petitioner's father's alleged appointment of the Hereditary Trustee is in dispute this petition to substitute the petitioner as Hereditary Trustee is not sustainable and the same is liable to be dismissed. The petitioner has not produced any document to show that the legal heirs of the deceased R.N.Subramaniyan has gave consent to him to be the Hereditary Trustee of the Plaintiff Temple. Without production of legally valid and acceptable documentary evidence and proving same this petition is not maintainable and the same is liable to be dismissed. The petition in I.A.No.2/2022 was allowed by this court stating that the petitioner has given application for appoint him as Hereditary Trustee of the Temple before HR & CE the same was not specifically denied with necessary particular hence interest of justice the said petition was allowed. Hence the petitioner's allegation that he was appointed as Hereditary Trustee of the Temple by HR & CE is false.

But the petitioner has now filed the copy of the order of the Joint Commissioner, HR & CE Department, Vellore in M.P.No.3/2021, dated 15.07.2022 wherein the petitioner is entitled to succeed the Office of Hereditary Trusteeship and recognized as Hereditary Trustee of the Arulmighu Kasi Viswanathar Temple, Gudiyattam Village and Taluk, Vellore District. The said copy of the Order is marked as Ex.P.1.

Even though the respondents stated that the petitioner's father's alleged appointment of the Hereditary Trustee is in dispute this petition to substitute the petitioner as Hereditary Trustee is not sustainable and the same is liable to be dismissed and the petitioner has not produced any document to show that the legal heirs of the deceased R.N.Subramaniyan has gave consent to him to be the Hereditary Trustee of the Plaintiff Temple, but the respondents have not objected for the order of the Joint Commissioner, even though the petitioner in I.A.No.2/2022 stated that the petitioner has applied for recognizing him as the Hereditary Trustee of plaintiff's temple and the order of the Joint Commissioner is awaited, the Respondents herein could have objected for appointment of Hereditary Trustee by impleading themselves as respondents in that petition but admittedly the respondents have not impleaded themselves as respondents in the petition filed by the petitioner herein before the Joint Commissioner as M.P.No.3/2021 and further the order has been passed on 15.07.2022 and the respondents have not filed any documentary evidence to prove that they have filed objections for appointment of Hereditary Trustee of the Plaintiff's temple

and for filing appeal as against the order passed in M.P.No.3/2021. Further even though the respondents stated that they have objected for allowing the petition in I.A.No.2/2022 but they have not filed any appeal till date as against the order passed in I.A.No.2/2022 dated 24.08.2022. Since the present petition has been filed for consequential amendment of the Plaint as per the order passed in I.A.No.2/2022 and also filed the copy of the Order passed by the Joint Commissioner, HR & CE Department, Vellore, for appointing him as Hereditary Trustee of the Plaintiff temple and since there is no appeal filed as against the order passed in I.A.No.2/2022 the present petition has to be allowed.

In the result, this petition is allowed. No cost.

Dictated to steno typist, typed by her directly, corrected and pronounced by me in open court, this the 15th day of December 2022.

**Additional District Judge(FTC)
Vellore.**

Annexure:

Petitioner's side Exhibits:

Ex.P.1 / 15.07.2022 / Order in M.P.No.3/2021 passed by Joint Commissioner,
HR & CE Department, Vellore.

Respondents' side Exhibits:

NIL

Both side witnesses :

NIL

**ADJ (FTC),
Vellore.**

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),
VELLORE, VELLORE DISTRICT.**

**PRESENT: Tmt.P.REVATHY, M.A.,M.L.,
Additional District Judge(FTC),Vellore.**

Dated this the 15th day of December 2022, Thursday.

**I.A.NO.3/2022 in
O.S.NO.91/2020**

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Arulmigu Kasi Vishwanathar Temple Big Vaniyar Street, Nadupet, Gudiyattam Town, Vellore District represented herein by its Hereditary Trustee S.Sivakumar, aged about 47 years, S/o.R.N.Subramaniyan, residing at No.14/40, Gandhi Road, Nadupet, Gudiyattam Town, Vellore District Presently residing at No.24, Thengai Ramasamy Street, Walaja Town, Ranipet District.

..Petitioner/Plaintiff

//Vs//

1. A.Nagaraj, Hindu, age not known, S/o.Arunachala Achari,
 2. A.Ramesh, Hindu, age not known, S/o.Arunachala Achari,
 3. A.Babu, Hindu, age not known, S/o.Arunachala Achari,
 4. A.Sundaram, Hindu, age not known, S/o.Arunachala Achari,
- Respondents No.1 to 4 are residing at No.25, Dhadi Arunachalam Street, Nadupet, Gudiyattam Town, Vellore District.
5. S.Nataraj Achari, Hindu, age not known, S/o.Subbu Achari,
 6. N.Yuvaraj, Hindu, age not known, S/o.Nataraj Achari,
- 5 and 6 are residing at No.25, Dhadi Arunachalam Street, Nadupet, Gudiyattam Town, Vellore District.

..Respondents/Defendants

Petition filed by the petitioner under Order 6, Rule 17 and Sec.151 of CPC, prays to permit the petitioner to carry out the amendment as per order in I.A.No.2/2022 dated 24.08.2022.

This petition is coming before me on 14.12.2022 for final hearing in the presence of Thiru.G.Jayachandran and Thiru.M.V.Swamy, Counsels for the petitioner and of Thiru.B.Yayathi Rajan, counsel for the respondents No.1 to 6

and upon hearing the arguments of both sides and upon perusing the entire case records and having stood over for consideration, till this date this court doth order and decreetal order as follows:-

DECREETAL ORDER

1. That the petition be and the same is hereby allowed;
2. That there is no cost.

Given under my hand and the seal of this court, on this the 15th day of December 2022.

**Additional District Judge(FTC),
Vellore.**