

Devadasan vs Deity,

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SooperKanoon Citation : sooperkanoon.com/1524878

Court : Kerala

Decided On : Mar-14-2022

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : FAO/100/2020

Appellant : Devadasan

Respondent : DEITY,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
MONDAY, THE 14TH DAY OF MARCH 2022 / 23RD PHALGUNA, 1943
FAO NO. 100 OF 2020 AGAINST THE ORDER DATED 15/10/2020 IN
I.A.997/2019 IN OS 38/2019 OF SUB COURT,ATTINGAL
APPELLANTS/RESPONDENTS 3 TO 9/DEFENDANTS 3 TO 9:

1 DEVADASAN, AGED 62 YEARS, S/O.MADHAVANKUTTY ACHARI,
K.C.BHAVAN, PULLANICODE, EDAVA P.O., 2 S.SATHYAN,AGED 64
YEARS S/O.SHANMUGHAN ACHARI, THIRUVATHIRA,
CHEMPAKATHINMOODU, 3 S.MONY, AGED 63 YEARS,
S/O.SUNDARAN ACHARI, KUDIL, EDAVA P.O.,

THIRUVANANTHAPURAM-695311. 4 K.KANAKARAJAN,AGED 66 YEARS, S/O.KESAVANKUTTY, POURNAMI, VENKULAM, EDAVA, 5 AJITHKUMAR,AGED 56 YEARS, S/O.VAMADEVAN ACHARI, ANITHA BHAVAN, JAWAHAR PARK, VARKALA, THIRUVANANTHAPURAM-695141. 6 VINOD JAYADEVAN,AGED 42 YEARS, S/O.JAYADEVAN ACHARI, AWATHY, MARAKKADAMUKKU, VENKULAM, EDAVA P.O., THIRUVANANTHAPURAM-695311. 7 BINOJ @ ROMY, AGED 43 YEARS, S/O.BALAN ACHARI, MANOJ MANDIRAM, CHEMPAKATHINMOODU,

BY ADVS. K.MOHANAKANNAN SMT.M.A.ZOHRA SRI.SAABIR F. HAQ RESPONDENTS/PETITIONERS & RESPONDENTS 1 AND 2/PLAINTIFFS AND DEFENDANTS 1 AND 2: 1 DEITY,VENKULAM, SREE SARASWATHY KSHETHRAM, VENKULAM DESOM, EDAVA VILLAGE, THIRUVANANTHAPURAM-695311 (REPRESENTED THROUGH PLAINTIFFS 2 AND 3). (RESPONDENTS 2 & 3 IN FAO) 2 M.CHANDRAN, AGED 63 YEARS, S/O.MADHAVAN, PANANINNA VILA, FAO NO. 100 OF 2020 2

3 R.SREEKUMAR, AGED 36 YEARS, S/O.RANGANADHAN ACHARI, INDIRAM, VADAKKEVAYALTHODI, VENKULAM, EDAVA P.O., 4 KERALA VISWAKARMA SABHA, A NON TRADING COMPANY REG.NO.38/1123, HAVING OFFICE AT VANJIPPUZHA KOTTARAM, CHENGANROOR, REPRESENTED THROUGH ITS PRESIDENT P.R.DEVADAS, KOUSALYA NIVAS, AYATHIL P.O., KOLLAM-691021. 5 SHAKHA NO.113 OF KERALA VISWAKARMA SABHA, REPRESENTED THROUGH ITS PRESIDENT UMAMAHESWARAN, S/O.KOCHUNARAYANAN ACHARI, AGED 70 YEARS, SAKHA NO.113, VENKULAM, EDAVA VILLAGE, RESIDING AT PLAVILA VEEDU, VENKULAM, EDAVA VILLAGE, THIRUVANANTHAPURAM-695311.

BY ADV SRI.M.R.RAJESH-R1 TO R3 THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR HEARING ON 14.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: FAO NO.

JUDGMENT

Appellants/defendants 3 to 9 came up, against the order of appointment of a Receiver by directing to submit a panel for selection.

2. The case of defendants 3 to 9, the appellants herein, is that the

property was purchased for an amount of Rs.96/- in the year 1107ME by the predecessor in interest, Madhavankutty Asari and subsequently consecrated a deity over the property and started to worship. They have also constructed a Bajanamadam in that property. It is an admitted case of the defendants 3 to 9, ie., appellants herein, that the property was purchased by Madhavankutty Asari not in his name or any of the members of his family, but for the benefit of Viswakarma community among Hindus in Edava Village. In fact, he was representing the Viswakarma community in Edava Village, in that document and the real purchaser of the property is not Madhavankutty Asari, but the person belonged to Viswakarma community among Hindus in Edava Village and they are the real owners of the property. It is now settled that a section of people or set of people also constitute and satisfy the expression public in all respects. FAO NO. 100 OF 2020 4

3. Inter alia, it is contended by the defendants/appellants that they

themselves constituted a committee for the administration of the temple. In fact, they do not have any right to constitute any committee for the administration of the temple or to deal with its affairs, simply because of the reason that they are the persons claiming under Madhavankutty Asari, apart from the right derived by them among the residents in Edava Village belonging to Viswakarma Community. So they can enjoy the right and all benefits as a member of Viswakarma community in Edava Village. Hence, the order appointing a Receiver for the administration of the affairs of the temple deserves no interference. But, since the suit has become ripe for trial, there will be a direction to the trial court to expedite the disposal of the suit within a time schedule of five months as far as possible. The appeal will stand

dismissed accordingly with the abovesaid observation. Sd/- P.SOMARAJAN
JUDGE msp

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