

(2024) 02 KL CK 0062

In the High Court Of Kerala

Case No : Review Petition No.1002 Of 2022 In R.F.A. No.843 Of 2009

S.N.D.P.Yogam

APPELLANT

Vs

K.P.Gopi

RESPONDENT

Date of Decision : 08-02-2024

Acts Referred:

Code of Civil Procedure, 1908 — Section 92

Citation : (2024) 02 KL CK 0062

Hon'ble Judges : P.B. Suresh Kumar, J;Johnson John, J

Bench : Division Bench

Advocate : A.N.Rajan Babu, P.B.Krishnan, K.Jagadeeschandran Nair,
M.G.Karthikeyan

Final Decision : Dismissed

Judgement

P.B.Suresh Kumar, J.

1. Appellants seek in this proceedings, review of the judgment in the appeal.
2. The appeal was one instituted challenging the preliminary decree in a suit instituted under Section 92 of the Code of Civil Procedure (the Code) for removal of defendants 2 to 16 from the administration of Aruvippuram Sree Narayana Dharma Paripalana Yogam (the Yogam) and for framing a scheme for its administration. The suit was contested by the defendants mainly on the ground that the Yogam is not a public trust. The trial court, on an appraisal of the materials on record, came to the conclusion that the Yogam is the successor body of Aruvipuram Kshetra Yogam which was a trust created for public purposes of charitable and religious nature; that it was subsequently registered as a company; that the subsequent registration of the Yogam as a company will not oust the jurisdiction of the court in respect of the same under Section 92 of the Code and that therefore, the suit is maintainable. On facts, it was found by the court below that the plaintiffs are entitled to a decree for settling a scheme for the administration of the Yogam. The Court, however, held that the plaintiffs

have not made out a case for removal of defendants 2 to 16 from the administration of the Yogam. In the light of the said findings, the court below passed a preliminary decree directing framing of a scheme for the administration of the Yogam in accordance with the law applicable to the Companies. The appeal was preferred by defendants 1 and 2, aggrieved by the said decision of the court below.

3. As in the suit, the main ground urged in the appeal was that the suit was not maintainable. This Court, on an elaborate consideration of the facts and circumstances of the case, affirmed the decree and judgment impugned in the appeal and it is the said decision of this Court that is sought to be reviewed in this proceedings.

4. Heard the learned counsel for the review petitioners/appellants.

5. The learned counsel for the review petitioners contended that the finding rendered by the trial court and its affirmation by this Court that the Yogam was an existing body, is unsustainable in law. According to the learned counsel, inasmuch as there is no pleading in the plaint to that effect, the trial court and this Court ought not have undertaken an adjudication on that issue. It was also contended by the learned counsel that there is misconception of facts in the judgment inasmuch as it is found that the Yogam is a reconstituted body of a public trust of religious and charitable nature namely, Aruvippuram Kshetra Yogam. It was also contended by the learned counsel that the judgment is vitiated by error of law inasmuch as it has the effect of Aruvippuram Siva Temple and its properties, which were given by its owner to another entity, being divested in the Yogam.

6. The appeal was heard for several days and it is after considering the elaborate arguments advanced by the learned counsel for the review petitioners, that the judgment sought to be reviewed was delivered. Even though as many as 19 grounds have been raised in the review petition, the review petitioners have not raised any ground that any of the arguments advanced were not considered in the judgment. The contentions now raised are nothing but further arguments to bring home the points already raised in the appeal and decided. In short, none of the grounds taken are grounds that could be raised for seeking review of the judgment.

7. Be that as it may, let us deal with the contentions taken by the review petitioners also. As noted, the first and foremost contention is that there is no pleading in the plaint that the Yogam was an existing body. The judgment that is sought to be reviewed indicates that the said fact is one taken note of by this Court, and despite lack of pleading in the plaint in that regard, this Court took the view that the same is not a ground to reject the stand taken by the plaintiffs as regards the Yogam being an existing body, as the suit is one in respect of a public trust. If there is any mistake in the finding rendered by the trial court as affirmed by this Court that the Yogam is a reconstituted body of a public trust of

religious and charitable nature namely, Aruvippuram Kshetra Yogam, this review petition is not the remedy for correction of the same. The contention that the judgment sought to be reviewed is vitiated by error of law inasmuch as it has the effect of Aruvippuram Siva Temple and its properties, which were given by its owner to another entity, being divested in the Yogam, is also, according to us, not a ground to seek review of the judgment.

The review petition, in the circumstances, is without merits and the same is, accordingly, dismissed.