

IN THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE
MADURAI

I.A. No. 966 of 2012

in

O.S. No. 1000 of 2012

The Commissioner,
Hindu Religious and Charitable Endowments
Development Department

----- Petitioner /
Plaintiff

- Vs -

Sri La Sri Arunagirinatha
Sri Gnanasambanda Desika Paramacharya Swamigal,
Adheenakartha of Sri Thirugnanasambanda
Swamigal Math @ Madurai Aadheenam

----- Respondent /
Defendant

COUNTER AFFIDAVIT FILED BY
THE RESPONDENT/ DEFENDANT

I, the 292nd Guru Maha Sannidhanam: Sri La Sri Arunagirinatha Sri Gnanasambanda Desika Paramacharya Swamigal, aged about 67 years, residing and having my Head Quarters Office at No.70, South Avani Moola Street, Madurai - 1 do hereby solemnly affirm and sincerely state as follows:

1) I am the respondent in this petition and also defendant in the main suit. I am well conversant with the facts of this case.

2) I deny all the allegations set out in affidavit filed in support of the above petition. The petition has been filed with imaginary, information without verifying the essential facts and actual truth. The prayer of the main suit is not maintainable as per law and hence this petition is liable to be dismissed.

THIRUGNANASAMBANDA SWAMIGAL AADHEENAM

Sri Gnanasambanda Desika
MADURAI AADHEENAKARTHA

3) I submit that I am the head of the Ancient and historical Madurai Aadheenam. The Madurai Aadheenam has been in existence for more than 2500 years. However, it has a recorded history of about 1500 years, when it was revived by the young enlightened incarnation Thiurgnana Sambandar, of the four visionary Saints of South Indian Saiva Siddhanta Philosophy. Even though paper records are not available, it is an accepted historical fact.

4) I submit that, until the year 1865, the sacred Madurai Meenakshi Sundareswarar Temple and the Rameswaram Ramanathaswamy Temple were under the control, management and administration of this Aadheenam. Thereafter, the same was taken up by the British Government.

5) I submit that, the Madurai Aadheenakartha is also the hereditary trustee for several other South Indian temples in Thanjavur and other Districts besides owning its properties. The spiritual, sacred and holistic services offered by Madurai Aadheenam are well-known throughout India and all over the world.

6) I submit that, being the Head of a very old traditional Hindu Religious Mutt/ Institution, I have an absolute power and right to profess, practice and propagate the Hindu Religion. The above right includes conducting Pooja, performing the religious rituals, preaching, appointing my representatives and also appointing my successor. The petitioner / plaintiff usurping the above provisions of law had chosen to file this petition without any substantial material and without any valid grounds.

THIRUGNANASAMBANDA SWAMIGAL AADHEENAM
Thirugnanasambanda Swamikal
MADURAI AADHEENAKARTHAR



7) I submit that the petitioner under the guise of this suit intruding, infringing and violating my fundamental rights which are conferred under Article 25 of the Constitution of India. It is submitted that, while Art.19 (1) (a) is subject of Art.19 (2), but Rights conferred under Art.25 are absolute.

8) I submit that, I am the 292nd Aadheenakartha or Pontiff of the Madurai Aadheenam, Guru Maha Sannidhanam Sri La Sri Arunagirinatha Sri Gnanasambanda Desika Paramacharya Swamigal is known by the title "Guru Maha Sannidhanam" had inherited the great responsibility in carrying forward the traditions of Thiurgnanasambandar's sacred work.

9) I submit that, the above said position has been passed down through the centuries in unbroken continuity since the Aadheenam's establishment. The renowned Saint Thiurgnanasambandar, whose spiritual fervor succeeded in bringing back great numbers of converted Buddhist and Jains back into the fold of Saivism, including a mass return to Shaivism of the entire kingdom of Madurai, which had been lured away from its native religion. Saint Thiurgnanasambandar is thus the founder and the first pontiff of this lineage and also the author of "Thevaram".

10) I submit that, I ascended the position of Madurai Aadheenam in the year 1980 at the age of 35. I am the 292nd Guru Maha Sannidhanam, succeeding Sri La Sri Somasundara Gnanasambanda Desika Paramacharya Swamigal the 291th Guru Maha Sanidhanam. From the date of taking over the position of Guru Maha Sannidhanam, I have been discharging my duties to the fullest of my abilities and as per the traditions of the Madurai Aadheenam.

AADHEENAM

emiter
AADHEENAKARTHAR

THIRUGNANASAMBANDA SWAMIGAL AADHEENAM

Gnanasambanda Desika
MADURAI AADHEENAKARTHAR

(1) I submit that, in order to carry forward the traditional values of Thirugnanasamandar and Madurai Aadheenam, with due conscience and clear state of mind I had selected and appointed my successor on 27.04.2012 and ordained him as the 293rd Guru Maha Sannidhanam, Sri La Sri Paramahansa Sri Nithyananda Sri Gnanasambanda Desiga Paramachariya Swarnigal. Before appointing my successor, I had followed all the traditions that have been handed down to me by my predecessors.

12) I submit that, I am fully eligible, empowered and competent to manage, administer and appoint my successor of Madurai Aadheenam. The petitioner has no locus standi or is a person aggrieved by the functions of the Aadheenam.

13) Further it is more important to mention that after considering the serious objection made by the public and the well wishers of Madurai Aadheenam against the appointment of Sri Nithyananda as 293rd pontiff and also after deep thinking, I myself has cancelled the appointment of the Junior pontiff Swami Nithyananda as my successor on 19.10.2012 by public notice published in all News papers of Tamil Nadu. I have also made a declaration in the public notice regarding the cancellation of the Trust created by me dated on 12.04.2012 and also the declaration affidavit made on 27.04.2012 regarding the appointment of Swami Nithyananda as 293rd Pon:iff of Madurai Aadheenam.

14) Regarding the cancellation of his appointment wide publicity has been made through media and all other legal ways. Further it is submitted that as the Trust deed dated 12.04.2012 executed by me has been declared cancelled by me on 19.10.2012 and I am also taking

THIRUGNANASAMBANDA SWAMIGAL AADHEENAM
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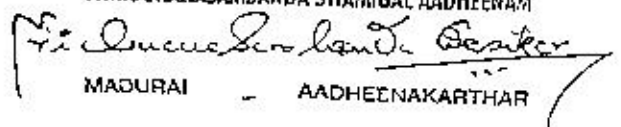
all steps to annul the same legally the stay petition becomes absolutely infructuous. In this connection, it is also important to say, that the said Sri Nithyananda has also accepted the cancellation of his appointment as 293rd Pontiff and the Trust deed through media. I have also sent a separate letter to Sri Nithyananda regarding the removal of his position in Madurai Aadheenam, dated on 27.10.2012 through RPAD.

15) It is also submitted that the suit itself is affected by the principles of resjudicata as already a case filed by the petitioner / plaintiff in O.S. No.416/1984, seeking my removal on various grounds prevailed at that time. Now it is more pertinent to mention that while the said suit has been filed by the petitioner / plaintiff for some violation of the provisions of HR & CE Act, the present suit on the some grounds of the same Act, is absolutely affected by the principles of Resjudicata and it is also an abuse of process of the Court.

16) As such, now as I have removed our successor, i.e., the 293rd Pontiff Sri Nithyananda, no cause of action survives for this case and on that score alone, the present suit is liable to be dismissed as not maintainable.

17) It is further submitted that all the allegations made against me both in the suit plaint and the affidavit of the stay petition and the interim injunction petitions are completely denied by me as false and improper and only invented for the purpose of this petition. Because, no such allegations were made by petitioner in his counter dated September 2012 filed in the Writ Petition W.P.No.12915/2012 before the Hon'ble High Court of Madras.

THIRUGHANASAMBANDA SWAMIGAL AADHEENAM


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18) It is further submitted that in a letter bearing R.C. No.26975/S2/ dated 22.08.2012 addressed to one Krishnamoorthy, who had sent a representation requesting the HR&CE. Dept. to undertake Madurai Aadheenam Math under custody as per Tamil Nadu HR & CE. Act - 1959 and to take legal steps under Sec.63 of the Courts of Wards Act - 1902, the petitioner has mentioned in Para 9 of the letter to the effect that "as the office of the Trustee of the Math does not fall vacant under Sec.60 of the Act as well there is no ground under sec.59 of this Act arises, the request made by the petitioner in the representation dated 17.05.2012 to undertake the Madurai Aadheenam immediately under the custody of this Department as per the Tamil Nadu HR & CE. Act 1959 and to take an effective legal steps under Sec.63 of the Courts of Wards Act - 1902 deserves no merit as the said request is not in accordance with the provisions of law".

19) While that being the stand of the HR & CE for the request to undertake the Muth in the month of August 2012, the present suit and its connected petitions for stay and interim injunction under the grounds of Sec.59 of the Tamil Nadu HR & CE Act are absolutely with an ulterior motive and only an after-thought.

20) The allegations made in the plaint with regard to the alienation of the immovable properties of the Math against the provision of the HR & CE Act are denied by me as utter false and untenable. The petitioner has duly conducted the audit of the account of the Math every year and the Math has paid the contribution and the audit amount properly to the department without any short fall.

THIRUGNANASAMBANDA SWAMIGAL AADHEENAM
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21) Further in the stay petition the date of the Trust deed has been wrongly given as 23.04.2012 instead of 12.04.2012 which is the original date of execution.

22) In the above circumstances, the stay petition filed by the petitioner is liable to be dismissed in limine as infructuous.

23) Further it is submitted that the petitioner has not impleaded Sri Nithyananda in the above suit and in the stay and Interim Injunction petition who is the proper and necessary party to this proceedings in respect of the matter-in-issue. So the suit itself is liable to be dismissed for non-joinder of the necessary parties. This petition is also liable to be dismissed on the sole ground.

24) The petitioner has, as such, no prima facie case to get the interim order he prayed for in this petition.

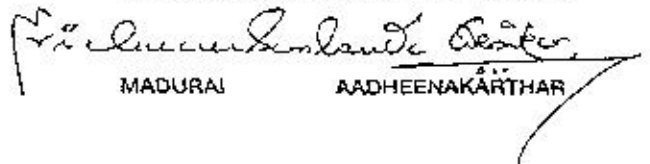
25) Further it is more important to note that the suit is liable to be dismissed on the ground of the pendency of three writ petitions pending before the Division Bench of the Honorable High Court of Madras. W.P.No.13751/2012, W.P. No. 8260 / 2012 and also W.P.No.12915/2012 (which has been reserved for orders).

26) In the above circumstances, if this Hon'ble Court passes any order in this present petition that will create many legal problems besides the chance of rendering contradictory findings.

27) Further in W.P. No. 12915 / 2012, the Hon'ble High Court of Madras has already passed an order dated on 03.04.2012 in M.P.No.1/2012 directing the respondent 3 and 4, i.e., myself and Sri Nithyananda to maintain status quo as on to-day in respect of the properties both movable and immovable belonging to the Mutt in the meantime.

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KSR
IAR

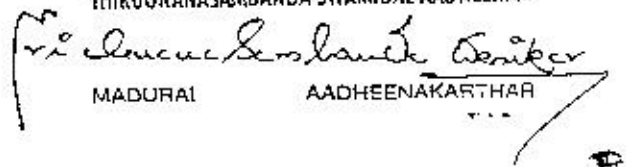
THIRUGNANASAMBANDA SWAMIGAL AADHEENAM


MADURAI AADHEENAKARTHAR

28) While that order is still in force the present petition in this suit seeking Prohibitory ad-interim injunction restraining me and any one claiming through or nominated by me from interfering with the petition mention Math and its properties till the disposal of the suit, become unnecessary and untenable, besides abuse of process of law.

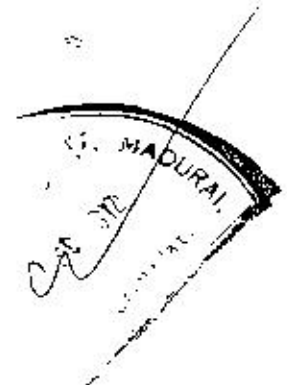
29) The petition is also liable to be dismissed as devoid of merits.

For the above said reasons, it is prayed that this Hon'ble Court may be pleased to dismiss the petition with costs and thus render justice.

THIRUGNANASAMBANDA SWAMIGAL AADHEENAM

MADURAI AADHEENAKARTHAR

Solemnly affirmed and signed
before me on 29.10.2012 at Madurai.


Advocate


MADURAI
29.10.2012

Received copy

P. Jey
Admitted 29/12/12
Cust. Pleader

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PRINCIPAL SUBORDINATE
JUDGE, MADURAI

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COUNTER

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ADVOCATES

M/S. V. NAGENDRAN, M.A., B.L.

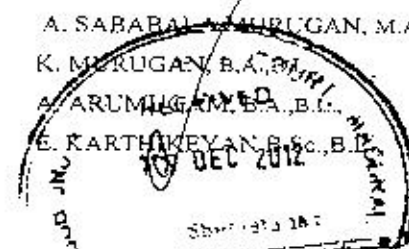
J. RAMAMOORTHY, M.B.A., B.L.

A. SABARAJU, MURUGAN, M.A., B.L.

K. MERUGAN, B.A., B.L.

A. ARUMUGAM, M.A., B.L.

E. KARTHICKYAN, B.Sc., B.L.



2/12/12
Respondent / Defendant

Sri La Sri Arunagirinatha
Sri Gnanasambanda Desika
Paramacharya Swamigal,
Adheenakartha of Sri
Thirugnanesambanda
Swamigal Math @ Madurai
Aadheenam