

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(NPD).No.2509 of 2015
and M.P.No.1 of 2015

The Accommodation controller (RDO)
Collectorate, Salem.

..Petitioner

/vs/

Sundarrajan(died)

1.Leela
2.Sunila
3.Srinithi
4.Mangalam
5.N.S.Deepak

..Respondents

Prayer: Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the order dated 01.04.2015 made in R.E.A.No.318/2013 in R.E.P.No.35/1996 in O.S.No.213/1992 on the file of 1st Additional Sub Court, Salem.

For Petitioner : Mr.Jayaramarajan
Government Pleader (C.S.)
For Respondents : Mr.T.Murugamanickam (For R3)

ORDER

Civil Revision Petition is filed to set aside the order dated 01.04.2015 made in R.E.A.No.318/2013 in R.E.P.No.35/1996 in O.S.No.213/1992 on the file of 1st Additional Sub Court, Salem.

2.At the time of admission, argument of the learned Government Pleader (C.S.) appearing for the petitioner and the learned counsel appearing for the third respondent is heard in length.

3.The respondent, namely, R.Sunderrajan, as plaintiff filed a suit stating that he is the owner of the property which was let out to the Government and since they have not paid the rent, he has filed the suit for recovery of rent arrears. The suit was decreed. Since he died, his legal heirs filed R.E.P.No.35/1996 for recovery of amount. At this juncture, the respondents in R.E.P.No.35/1996 filed R.E.A.No.318/2013 for impleading the legal heirs of one Somasundaram, who is alleged to be in possession of the property. After hearing both sides, the application was dismissed. Against which, the present revision petition has been preferred by the revision petitioner.

4.The learned Government Pleader (C.S.) appearing for the petitioner would submit that the proposed parties are necessary parties for adjudication of R.E.P.No.35/1996. But the Trial Court without considering the same dismissed the application stating that they are not necessary parties. Hence, he pray for allowing of the revision petition.

5.The learned counsel appearing on behalf of the decree holder/the

third respondent would submit that the decree has been obtained against the Accommodation Controller (RDO), Salem and not the Government Officer who was residing there and he was already vacated from the premises. So, the revision petitioner ought to have pay the rent and the person who was in possession of the property has not been impleaded in the suit itself. That factum was rightly considered by the Trial Court. Hence, he pray for dismissal of the revision petition.

6.Considered the rival submissions made on both sides and perused the typed set of papers.

7.One Sunderrajan, the plaintiff, filed a suit in O.S.No.213/1992 for recovery of amount against the revision petitioner. The suit was decreed. After filing the R.E.P.No.35/1996, the decree holder/the plaintiff died. His legal heirs were impleaded as parties. R.E.P.No.35/1996 has been filed in the year 1996. In the year 2013, the revision petitioner herein has filed R.E.A.No.318/2013 for impleading the legal heirs of one Somasundaram, Government servant, who was in possession of the property. But admittedly the decree has been passed against this revision petitioner and at the time of contesting the suit, it is not the case of the defence that the said Somasundaram is a necessary party. Since the revision petitioner is not

satisfied with the decree passed by the Trial Court, to follow the delaying tactics, the revision petitioner has come forward with the application to implead the legal heirs of the said Somasundaram and so, the proposed parties/respondents 4 and 5 are not necessary parties for adjudication. Hence, I do not find any merits in the revision petition and the revision petition is hereby dismissed.

8.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

30.06.2015

Index:Yes/No
Internet:Yes/No

cse

To

The 1st Additional Sub Court, Salem.

R.MALA, J.

cse

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and M.P.No.1 of 2015**

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