

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.3907 of 2011

and

M.P.Nos.1 and 2 of 2011

S.Ramachandran

.. Petitioner

Vs

1.Arulmigu Kamakzhi Ambal Devasthanam,
Kancheepuram
Rep. by its Executive Officer,

2.Ch.Viswanatha Sastry,
S/o.Seshachala Sarma Sri Karyam Agent,
Arulmigu Kamakshi Ambal Devasthanam,
Kamakshi Ambal Sannathi Street,
Kancheepuram.

.. Respondents

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order dated 10.08.2011 passed in I.A.No.44 of 2011 in O.S.No.85 of 2006 on the file of the Principal District Munsif Court, Kancheepuram.

For Petitioner : Mr.M.Sriram
For Respondents : Mr.Y.Jyotish Chander

ORDER

The Civil Revision Petition is filed against the order and decreetal order dated 10.08.2011 passed in I.A.No.44 of 2011 in O.S.No.85 of 2006 on the file of the Principal District Munsif Court, Kancheepuram.

2.The respondents as plaintiffs filed a suit in O.S.No.85 of 2006 on the file of the District Munsif Court, Kancheepuram for recovery of possession of the suit B schedule property from the defendant through process of Court in favour of the plaintiffs Devasthanam. The defendant filed the written statement and contested the suit. Subsequently, the suit in O.S.No.85 of 2006 was dismissed for default on 03.08.2010. Thereafter, the plaintiffs filed I.A.No.44 of 2011 to set aside the order of dismissal dated 03.08.2010 and restore the suit to file. The Trial Court after hearing both sides allowed the application. Against which, the present Civil Revision Petition has been filed.

3.Learned counsel for the petitioner submitted that the respondents as plaintiffs filed a suit for ejectment stating that the petitioner/defendant who is the Manager of the Temple was removed from service. Challenging the same, he preferred a writ petition in W.P.No.25535 of 2005 wherein a compromise was entered on condition to withdraw the writ petition. On that

basis, the writ petition was dismissed as withdrawn and he was given the post of Manager. The defendant/revision petitioner is residing in the suit property in the capacity of Manager of the Temple and so, the suit for ejectment was filed. Hence, no purpose will be served in restoring the suit. That factum was not considered by the Trial Court. Hence, he prayed for setting aside the order passed by the Trial Court in I.A.No.44 of 2006.

4.Resisting the same, the learned counsel for the respondents would submit that the property is not belonging to the Mutt and it belongs to the Temple. He would also submit that this petitioner was appointed as Manager by the Mutt and so, there is no privity of contract between the petitioner and the respondents. He further submitted that if the petitioner want to settle the matter, he may very well approach the H.R.& C.E. Department to settle the matter and till then, he has no locus standi to challenge the impugned order. Hence, he prayed for dismissal of the revision petition.

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

6.The respondent as plaintiffs filed a suit for ejectment stating that the defendant is in possession of the property and has made alterations and

additions. But during the pendency of the suit after filing of the written statement, the suit was dismissed for default. Hence, the plaintiffs filed I.A.No.44 of 2011 for restoration of the suit. The Trial Court after considering the argument of both sides, has allowed the application. But the only point to be decided is that whether the petitioner is entitled to the suit property as the Post attached quarters? But that has to be decided only at the time of trial. Further, it is left open to the Trial Court to decide whether the suit property is belonging to the Temple under the control of H.R. & C.E. Department or under the control of Mutt to be decided at the time of trial. So, opportunity must be given to the respondents/plaintiffs to put forth their case. In such circumstances, I do not find any merits to interfere with the order passed by the Trial Court and hence the same is hereby confirmed. Therefore, the Civil Revision Petition deserves to be dismissed.

7.In the result, the Civil Revision Petition is dismissed. Further, since the suit is of the year 2006, the Trial Court is dispose of the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs.

26.11.2015

Index: Yes/No
Internet: Yes/No
cse

R.MALA. J.,

cse

To

The Principal District Munsif Court, Kancheepuram.

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