

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4251 of 2015 &

M.P.No.1 of 2015

M/s.Barton Trust
A registered Partnership Firm
Having its registered office at
"Fair Rose", Porter Avenue
Coonoor, The Nilgiris,
Rep. By its Partner
Mrs. Jessy Jacob
W/o. Mr.Mohan Jacob
"Fair Rose", Porter Avenue
Coonoor – 643 101

... Petitioner

v.

D.K.Bhaskaran

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the application in E.A.No.18 of 2015 in E.P.No.3 of 2012 in O.S.No.1 of 2005 on the file of the District Judge, The Nilgiris at Ootakamund.

For Petitioner : Ms.G.Sumitra

ORDER

The decree holder has filed the above Civil Revision petition to strike off the application in E.A.No.18 of 2015 in E.P.No.3 of 2012 in O.S.No.1 of 2005 on the file of District Court The Nilgiris at Ootakamund.

2. Pursuant to the decree obtained in O.S.No.1 of 2005, the revision petitioner-decree holder filed an Execution Petition in the year 2012 and in the year 2014, the judgment debtor filed an application in E.A.No.18 of 2015 in in E.P.No.3 of 2012 under Order 21, Rule 41 of CPC to implead the Official Liquidator, Chennai as a party to the proceedings.

3. In the affidavit filed in support of the application, the judgment debtor has stated that in the Company Petition in C.P.No.190 of 2006, this court appointed Official Liquidator to look into the affairs of the cases pertaining to O.S.No.1 of 2005 and O.S.No.2 of 2005 as such, the Official Liquidator is a proper and necessary party in the Execution Proceedings.

4. The decree holder filed their counter in May 2015 and are contesting the suit.

5. Now, after a lapse of nearly one year from the date of filing of the

application, the decree holder has come forward to file the above Civil Revision Petition to strike off the application in E.A.No.18 of 2015.

6. The decree holder having filed their counter and are contesting the application, I am of the view that, instead of striking off the application in E.A.No.18 of 2015 in the Civil Revision Petition, it would be appropriate to pass suitable orders in the application in E.A.No.18 of 2015 on merits and in accordance with law.

7. Accordingly, I direct the District Court, The Nilgiris at Ootakamund to dispose of the application in E.A.No.18 of 2015 in E.P.No.3 of 2012 in O.S.No.1 of 2005 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

With this observation, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.11.2015

Index : Yes/No

Rj

To

The District Court,
The Nilgiris at Ootakamund

M. DURAISWAMY,J.,

Rj

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