Origional Application No.651 of 2013
in
C.S.No.583 of 2013

R.SUBBIAH, J.,

This Original Application has been filed by the applicant/plaintiff praying to appoint a Receiver to manage the schedule mentioned properties and submit accounts before this Court, pending disposal of the suit.

2.The case of the applicant/plaintiff, in brief, is as follows_

2-1.The applicant/plaintiff is the fourth daughter of one late M.P.A.Thanikachala Mudaliar S/o.late Arunachala Mudaliar. The respondents/defendants are the other successors of the estate of late M.P.A.Thanikachala Mudaliar.

2-2.Originally the properties situated in Survey Nos.16/1, 16/2, 16/3, 16/4 and 16/5 in Appal Chetty Street in Arani Town as disclosed in schedule 'A' item 1 and Survey Nos.37/4, 131/8, 135/6, 135/12, 40/1, 122/73, 36/4A, 36/5B, 37/6A, 132/7, 131/7, 131/3A, 149/6B, 131/3B1 and 131/6A at Mullipet Village, Arani Taluk as described in Schedule 'A' Item 2, and Survey No.118/27 Schedule 'A' item 3 were alloted to the said M.P.A.Thanikachala Mudaliar in a family partition and thereafter, his name was also muted in revenue records. Apart from these properties, a property in Survey No.173/3, measuring to an extent of Acre 4.34 cents was mortgaged by one Sukkeeramani in favour of the said M.P.A.Tahnikachala

Mudaliar and subsequently, a suit was filed for foreclosure of the mortgage in O.S.No.113 of 1952 on the file of the Subordinate Court, vellore, against the said Sukkeeramani and the said suit came to be decreed. An execution petition was filed in E.P.No.27 of 1962. In the meanwhile, M.P.A.Thanikachala Mudaliar died on 03.06.1964. The legal hires of the judgment debtor came forward and executed a sale deed of the mortgaged property in Survey Nos.173/3 in favour of P.T.Subramanian Mudaliar for the mortgage money and the accrued interest, in Document No.2304 of 1967 on the file of the Sub-Registrar, Arani and the said P.T.Subramanian received the property for himself and other legal hires of late M.P.A.Thanikachala Mudaliar. This property is described in Schedule 'B' Item 2 of the Schedule of properties.

2-3.The applicant's father M.P.A.Thanikachala Mudaliar married late Sangothiammal and out of the wedlock Unnamalai, Kamatchi, Subramanian and Arunachalam were born. The said M.P.A.Thanikachala Mudaliar, after the death of his first wife, got married again with one Dhanabakkiyammal and through his second wife, Kasthuri, Babyammal (applicant), Subbrayan and Sambandam were born. Unnamalai, Kamathci, Kasthuri and Subbrayon died without any legal heirs to succeed their estate.

2-4.During the lifte time of M.P.A.Thanikachala Mudaliar, from out of the income, which he received from the properties stated above, had started a cloth business in the name of *M.P.A.Thanikachala Mudaliar Javuli Merchant* in the year 1959. Subsequent to the death of M.P.A.Thanikachala Mudaliar, the respondents and the applicant, by constituting a joint Hindu family, were maintaining the properties and the business named as *M.P.A.Thanikachala Mudaliar and Sons*, wholesale cloth merchant, established by M.P.A.Thanikachala Mudaliar. From out of the income from the joint family business namely *M.P.A.Thanikachala Mudaliar and Sons*, a new business in stage carriage operation/transport was started in the name and style of '*Sri Krishna Bas Services*'. Transport business (public Passenger Carriers) by operating route buses was run by the Joint Hindu Family business. From the income of these two businesses, several vacant lands were purchased and cinema theatre namely 'Sri Krishna Theatre' at Vazhapandal Road, Arani was also purchased and run by the joint Hindu family. In the year 1994 from out of the income of the joint family business in the name and style of '*Thanigai Textile and Readymade*', at No.204 and 205 Market road, Arani was started. All the members of the family had engaged in doing the family business and earning income. No other business was conducted by any member of the family independently and earing independent income. All the business were conducted jointly and the earnings were out of the joint family business.

2-5.The respondents and the applicant are the co-sharers of the properties mentioned in the suit schedule. The family members for the purpose of convenience in management of the properties had purchased the properties in the independent name from the income derived from the joint family business. The property alloted to M.P.A.Thanikachala Mudaliar is described in Schedule 'A'. The properties purchased by P.T.Subramani are detailed in Schedule B Item 1 to 11, the property purchased in the name of P.S.Saroja is detailed in Schedule 'C', the properties purchased in the name of P.S.Saroja are detailed in Schedule 'C', the properties purchased in the name of P.S.Jyothi Selvaraj are detailed in Schedule 'D' Item 1 to 4, the properties purchased in the name of P.S.Sathiyamoorthy are detailed in schedule 'E' Item 1 and the properties purchased in the name of P.T.Arunachalam are detailed in schedule 'F' item 1 to 7. The properties purchased by Lakshmi are described in Schedule 'G'. The properties purchased by P.A.Dakshinamoorthy are described in Schedule 'H'. The properties purchased by Thanigaivel are described in Schedule 'I'. The properties purchased by P.T.Sambandham are described as Schedule 'J' Item 1 to 7. The legal heirs Mrs.Arivukarasu, Revathi, Latha and Manikandan had no properties purchased in their name from out of the income of the joint family business. They have no property in their name. The applicant have no property in her name. The properties owned in the independent name of the respondents are not their self-acquired properties. On the other hand, the properties had been purchased from out of the income derived from the joint family business. The respondents are not properly managing the business and they are not providing any proper share to the applicant. The respondents are not showing any interest in dividing the properties and rendering true and proper accounts to the applicant. Hence, the applicant has filed the present suit for partition and mesne profits.

2-6.Pending the suit, the applicant has filed the above application to appoint a Receiver, stating that the respondents are not properly managing the properties and the business left by late M.P.A.Thanikachala Mudaliar; that the each respondent is managing the route permit buses independently dividing the buses on each route improperly; that they are not producing any accounts to any of the other legal hires who are entitled for share in the properties and the business; similarly the business in cloth merchant's, cinema theatre are all managed by different persons and they are not accounted. Thus, the applicant sought for appointment of a Receiver to manage the schedule mentioned properties and to submit accounts before this Court.

3.Though several opportunities were given to the respondents, they have not chosen to file any counter to the above application till date.

4.Considering the averments in the affidavit filed in support of this application and the materials available on record and the submission made by the learned counsel for the applicant, I am of the opinion that a Receiver could be appointed in this case. Hence, the 11th respondent –

P.T.Sambandan is hereby appointed as Party-Receiver to manage the schedule mentioned properties. He is directed to submit accounts once in three months to this Court.

This application is ordered accordingly.

29.01.2015

ssv

R.SUBBIAH, J.,

ssv

O.A.No.651 of 2013
in
C.S.No.583 of 2013

29.01.2015