



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P (NPD) (MD) No.1780 of 2015

and

M.P. (MD) No.1 of 2015

Syed Ali Fathima

:Petitioner/Petitioner/
Proposed Respondent

Versus

1.Sheik Mohammed

:R1/R1/Appellant

2.Sirajudeen

3.Mohideen Meerammal

: R2 & R3/R2 and R3/R1 and R2

PRAYER :Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 13.01.2015 made in I.A.No241 of 2013 in A.S.No.193 of 2007, on the file of the Subordinate Judge, Valliyoor.

For Revision Petitioner : Mr.H.Arumugam

For 2nd respondent : Mr.A.Arumugam

for Mr.V.Balasubramanian,

For 3rd respondent : Mr.S.Sivathilagar

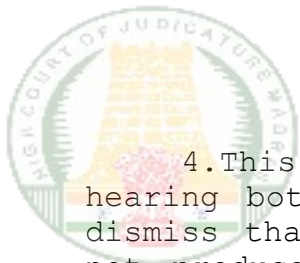
For 1st respondent : No appearance

O R D E R

Impugning the fair and decreetal order, dated 13.01.2015 and made in the Interlocutory Application in I.A.No.241 of 2013 in A.S.No.193 of 2007 on the file of the Sub Court, Valliyoor, this civil revision is filed by the petitioner, after invoking the provisions of Article 227 of the Constitution of India.

2.The revision petitioner is the 3rd party in the suit in O.S.No.88 of 1998 on the file of the Additional District Munsif, Nanguneri. Originally, the suit was filed by one Magudu Meerammal as against Sheik Mohammed the first respondent herein seeking the relief of permanent injunction and declaration as well as recovery of possession in respect of the suit property and also damages, own use and occupation. Since, Magudu Meerammal had passed away, Sirajudeen and Mohaideen Meerammal were impleaded as the plaintiffs 2 and 3 in the suit.

3.This suit was contested by the respondent by filing his written statement. After full fledged trial, the suit was decreed in favour of the respondents 2 and 3. Challenging the decree and judgment, dated 10.01.2007 and made in O.S.No.88 of 1998, the first respondent being the defendant had filed appeal in A.S.No.193 of 2007 before the Subordinate Judge, Valliyoor. During the pendency of the appeal, the petitioner, who is a stranger to the suit had filed an application in I.A.No.241 of 2013 under Order 1 Rule 10(2) of the Code of Civil Procedure to implead herself as one of the defendant and third respondent in the appeal.



4.This petition was resisted by the respondents 2 and 3. After hearing both sides, the learned first appellate court had proceeded to dismiss that application on the ground that the revision petitioner had not produced any valid, acceptable evidence to substantiate her claim that she was having right over the suit property. Challenging the order of dismissal, dated 30.01.2015, this revision has been filed by the petitioner.

5.Heard Mr.H.Arumugam, learned counsel appearing for the petitioner and Mr.A.Arumugam, learned counsel appearing on behalf of Mr.V.Balasubramanian, learned counsel who is on record for the 2nd respondent and Mr.S.Sivathilagar, learned counsel appearing for the 3rd respondent.

6.It is pertinent to note here that though, the petitioner herself is a stranger to the suit, she was examined as DW1 during the trial proceedings. What it transpires from the records is that she already knew that the suit in O.S.No.88 of 1998 was pending on the file of the Additional District Munsif Court, Nanguneri and that the suit was in fact filed in the year 1988. Thereafter, the defendant, who is the first respondent herein had filed his written statement as early as on 25.02.1987. During the trial proceedings, the petitioner was examined as DW2 on the part of the defendant. In this connection, the learned First Appellate Judge has stated that the documents, which were relied upon by the petitioner to substantiate her claim, were considered and found that they were not sufficient to substantiate her claim that she was having right or title over the property and therefore, her claim was rejected.

7.Further, the suit itself has been pending for more than 16 years. Even during the pendency of the suit, the petitioner had not come forward with such application to implead herself, either as one of the plaintiffs or defendants in the suit. But, she has not done so. Even though, she has deposed in her evidence that she was also having right over the property, it was rejected and the suit was ultimately dismissed and the appeal has not been filed in time. She has come forward with an application with a huge delay to implead herself as one the respondents, which was rejected by the trial court as she is neither a proper or a necessary party either to the suit or to the appeal.

8.Keeping in view of the above facts, this court is of considered view that the revision petition is devoid of any merit. Hence, this revision petition is dismissed. However, considering the fact that the suit itself is of the year 1998, the learned Subordinate Judge, Valliyoor is directed to dispose of the appeal in A.S.No.193 of 2007 as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To,

The Subordinate Judge,
Valliyoor.

+1cc to M/s.H.Arumugam, Advocate in SR.69735

+1cc to M/s.V.Balasubramanian, Advocate in SR.69622

CRP (NPD) (MD) No.1780 of 2015
04.12.2015

er.

PBK/SK-SKN 21/12/2015 ::2P-4C::