



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 16.02.2015

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P(MD) No.226 of 2015

and

M.P(MD) No.1 of 2015

O.M.Ganesh

...Petitioner/Proposed Party/8th Respondent

Vs.

1.P.K.Ekanathan (Trustee)

...1st Respondent/Petitioner/3rd Party

P.N.Venkataiyan Skandha Shastry

Samarathanai Annadhana Dharmam,

Rep. by its Trustees

2.P.K.Seenivasan

3.P.K.Rajendran

4.P.R.Venkatesh Babu

5.P.K.Surendran

6.P.S.Ramlal

7.P.K.Subramanian

8.P.S.Kannan

...Respondents 2 to 8/ Respondents/
Petitioners

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order, dated 30.10.2014 passed in I.A.No.1185 of 2012 in I.A.No.99 of 2012 in Tr.O.P.No.3 of 2007 on the file of the Principal District Judge, Madurai.

For Petitioner : Mr.C.Jawahar Ravindran

For R - 1 : Mr.T.R.Subramanian

ORDER

This Civil Revision Petition is filed by the petitioner, who is the proposed party, to be impleaded as eighth respondent in I.A.No.99 of 2012 in Trust O.P.No.3 of 2007 on the file of the Principal District Judge, Madurai.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

3. The revision petitioner is a proposed party, who has exchanged his property for the trust. I.A.No.99 of 2012 is filed by one P.K.Ekanathan, claiming to be the trustee through male descendants from one branch, as per the recitals of the trust deed, dated 27.08.1907.

4. The Trust O.P.No.3 of 2007 itself is filed by seven of the trustees to sell the trust property and purchase another property. Later, they have amended the prayer and sought for exchange as one of the properties of the trust. The present petitioner in the revision petition had also filed an affidavit to exchange his property with the trust and stood as P.W.6, though he was originally not a party in Trust O.P.No.3 of 2007. As the present petitioner was not a party to the Trust O.P.No.3 of 2007, he was sought to be impleaded in the said Trust O.P.No.3 of 2007

and initially, I.A.No.99 of 2012 was filed and subsequently, I.A.No.1185 of 2012 was filed and the same was allowed. Aggrieved by the impleadment, the above Civil Revision Petition has been filed.

5. According to the learned counsel appearing for the petitioner, I.A.No.99 of 2012 was originally returned by the Court on the ground of maintainability. Therefore, without even deciding the maintainability of I.A.No.99 of 2012, a subsequent application, namely, I.A.No.1185 of 2012 to implead the petitioner in I.A.No.99 of 2012 is allowed. The revision petitioner, who was the exchangee of the property of the trust, has challenged his impleadment in an application filed by another third party, who is seeking to set aside the order passed in Trust O.P.No.3 of 2007. Even before the said application could be allowed, an I.A was filed and the same has been allowed. Therefore, the only grievance of the petitioner is that when the maintainability of I.A.No.99 of 2012 is not decided, the Court should not have allowed the impleadment of the revision petitioner.

6. During the course of argument, it is agreed by both the counsel that if I.A.No.99 of 2012 is disposed of, automatically the challenge made by the revision petitioner goes. Therefore, with the consent of both the counsels, the Principal District Judge, Madurai is directed to dispose of I.A.No.99 of 2012 in Trust O.P.No.3 of 2007 and decide on merits, including the question of maintainability of the same by the third party, in accordance with law before 31st March, 2015. The order, dated 30.10.2014 made in I.A.No.1185 of 2012 is set aside and the matter is remanded back to the same Court to be tried along with I.A.No.99 of 2012. It is open to the revision petitioner to make all his contentions in the said application.

7. With the above observations, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To
The Principal District Judge, Madurai.

+1cc to Mr.C.Jawahar Ravindran, Advocate in SR.7045

+1cc to Mr.T.R.Subramanian, Advocate in SR.6975

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