

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos.4602 to 4605 of 2015

Mohan Raj : Petitioner in all revisions

versus

Jayaram Udayar (deceased)

Rama Moorthi : Respondents in all revisions

PRAYER: Revision filed against the order dated 14.7.2014, in I.A.Nos.1424, 1425, 1426, 1427 of 2011 in O.S.Nos.82, 83, 86, 88 of 2008 on the file of the II Additional District Munsif Court, Ulundurpet.

For petitioner :: Mr.M.E.V.Thulasi

For respondents :: No appearance

COMMON ORDER

The plaintiff by name Jayaram Udayar, filed suits on promissory notes, in O.S.Nos.82, 83, 86, 88 of 2008, before the II Additional District Munsif, Ulundurpet, praying for a money decree. The petitioner was arrayed as the second defendant. The plaintiff died on 12 September 2010, pending suits. The second respondent herein filed an interlocutory application in the concerned suits to recognize him as the legal representative and to continue the suit. The applications in the respective suits were allowed by the trial court. The orders are under challenge in these civil revision petitions.

2. The learned counsel for the petitioner contended that the trial

court relied on the evidence given by the Village Administrative Officer to recognize the second respondent as the legal representative of the deceased plaintiff. According to the learned counsel, there was no corroborative evidence to prove that the second respondent is the legal representative of the plaintiff and as such, the trial court was not correct in allowing the applications and thereby, impleading him as a party.

3. None appears on behalf of the second respondent.

4. The suits were initiated by the plaintiff for a money decree. The plaintiff died during the currency of the suits. The second respondent filed interlocutory applications in each of the suits claiming that he is the legal representative and as such, he is entitled to be made a party, so as to enable him to continue the suit.

5. There was no evidence produced by the second respondent to substantiate his contention that he is the legal representative, entitled to step into the shoes of the plaintiff. The second respondent examined the Village Administrative Officer on his side to prove that he is the legal representative of the deceased plaintiff. The Village Administrative Officer was not in a position to produce any document to demonstrate that the second respondent is entitled to succeed. The trial Court without insisting the second respondent to produce at least some evidence, showing the

relationship with the deceased plaintiff, allowed the application solely on account of the evidence given by the Village Administrative Officer.

6. Before allowing the application filed by the second respondent, the trial Court should be convinced that he is the legal representative of the deceased plaintiff. Even though a full-fledged enquiry is not necessary, still there should be materials produced before the trial court to substantiate the contention with regard to the status claimed by the second respondent. No such evidence was produced before the trial Court. I am therefore of the view that the trial Court was not correct in allowing the individual applications.

7. In the result, the order dated 14 July 2014 in I.A.Nos.1424, 1425, 1426, 1427 of 2011 are set aside. The applications are restored to file. The second respondent is given liberty to produce materials before the trial Court to substantiate his claim that he is the legal representative of the deceased plaintiff and as such, he is entitled to continue the suit. The learned II Additional District Munsif, Ulundurpet, is directed to decide the applications afresh after giving opportunity of hearing to both the parties.

K.K.SASIDHARAN, J.

(tar)

8. The civil revision petitions are allowed as indicated above. No costs. Consequently, M.P.Nos.1 of 2015 are closed.

16.11.2016

Index:Yes/no
tar

To
The II Additional District Munsif, Ulundurpet

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