

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.729 of 2015
and M.P.No.1 of 2015

S.Arul

.. Petitioner/3rd Party

Vs.

1.Hema Maheswari

2.V.Manickam Mudaliar

3.V.Palaniappan

4.M.Muthusamy

5.V.Sengodan

6.S.Thirumalai

7.S.Arunachalam

8.T.Ramachandran

9.K.Rangasamy

10.S.Srinivasan

11.M.Natarajan

12.R.Sengodan

13.Ilachelaian

14.M.Karunanithi

15.P.Ramasamy

.. Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, against the order dated 19.08.2014 in

I.A.No.178 of 2014 in O.S.No.496 of 2013 on the file of the learned
II Additional Subordinate Judge, Salem.

For Petitioner : Mr.Jayakumar for
M/S.T.Fennwalter Associates
For R1 to R15 : No appearance

ORDER

Civil Revision Petition is filed against the order dated
19.08.2014 in I.A.No.178 of 2014 in O.S.No.496 of 2013 on the file
of the learned II Additional Subordinate Judge, Salem.

2.Even though the respondents were served with notice, no
one represented on behalf of them and the revision is posted today
under the caption 'for orders'. Even today, there is no
representation on behalf of the respondents.

3.Heard the learned counsel appearing for the revision
petitioner/third party and perused the typed set of papers.

4.The first respondent herein as a plaintiff filed a suit for
specific performance on the basis of the sale agreement stating

that respondents 2 to 15 herein, who are defendants 1 to 14, entered into an unregistered sale agreement with the plaintiff on 17.11.2002. Since the defendants are not ready and willing to perform their part of contract, the plaintiff was constrained to file the suit. During pendency of the same, a third party, who is the revision petitioner herein, filed an application in I.A.No.178 of 2014 under Order 1 Rule 10 C.P.C., to implead himself as a party to the suit stating that he is the Dharmakartha of Sri Muthukumarasamy Kandasami Kovil, Kalangani and hence, he is necessary party for proper adjudication of the suit. The trial Court, after hearing both sides, dismissed the application stating that there is no necessity to implead him as party to the suit as per Section 19 of Specific Relief Act, against which, the present revision has been preferred by the third party.

5.On perusal of para-4 of the plaint, it reveals that the property belongs to Kandasamy temple, which originally belonged to Senguntha Mudaliar Samugam at Kalangani. On perusal of application, it reveals that the suit properties originally belonged to one Arayeeammal and she bequeathed her property to her daughter Kullammal for life estate. Since she is a widow and has

no legal heirs, vested right of her family deity Kandasamy temple, Periya Kalangani Village, Namakkal Taluk. It further reveals that the revision petitioner, who is representing the temple as a Dharmakarthha and also being devotee and trustee of the temple, has right to protect the interest of temple and property. Hence, he filed the application to implead himself as party to the suit. But the revision petitioner has not filed any document to show that the property mentioned in the plaint and the temple property, in which, he is the trustee, are one and the same.

6.It is pertinent to note that Section 19 of the Specific Relief Act deals with who are parties to the suit for specific performance. The revision petitioner has filed the application as Dharmakarthha of Sri Muthukumarasamy Kandasami Kovil, Kalangani. But he has not filed any document to show that he is the Dharmakarthha of Kandasamy temple as mentioned in the Will. So in my view, the revision petitioner is not a necessary party to the suit proceedings, as he has not filed any document to show that the property mentioned in the plaint and the temple, in which, he is the trustee, are one and the same. The trial Court has rightly considered all the aspects in proper perspective and came to the correct

conclusion. Therefore, the order passed by the trial Court does not suffer any infirmity or illegality and it is hereby confirmed. The civil revision petition deserves to be dismissed and it is hereby dismissed.

7. In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

28.01.2016

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Index: Yes/No

To

II Additional Subordinate Judge, Salem.

R.MALA,J.

Kj

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