

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 26.04.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) Nos.1327 of 2016

&

C.M.P.No.7451 of 2016

The Dadabadi Sri JIN-KUSHAL SURIJI
JIN – CHANDRASURIJI TRUST
By its Managing Trustee
No.370 Konnur High Road
Chennai – 600 023

... Petitioner

vs.

1.J.Rajesh Samdaria
2. Shree Chandrababhu Maharaj
Juna Jain Mandir Trust
Represented by its Secretary
345 Mint Street
Chennai – 600 079

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 14.12.2015 in I.A.No.9759 of 2015 in O.S.No.14334 of 2010 on the file of the learned VII Additional City Civil Court Judge, Chennai.

For Petitioner : Mr.D.Ferdinand
for M/s.B.F.S.Legal

ORDER

In a suit filed by the second respondent against the revision petitioner for an injunction restraining the revision petitioner from

putting up construction of a temple, the first respondent herein filed an application for getting impleaded as a second defendant. The application was resisted by the second respondent/plaintiff contending that the application was a ruse for protracting the case. The revision petitioner herein / first defendant also resisted the said application contending that he is a party to the suit insofar as he is a member of the plaintiff Trust.

2. The learned trial Judge, after hearing the parties, rejected the objection raised by the revision petitioner/first defendant and also by the second respondent/plaintiff and allowed the said application for impleadment of the first respondent as a party defendant. It is as against the said order of the learned trial Judge dated 14.12.2015, the present Civil Revision Petition has been filed.

3. The matter stands listed today for admission. The arguments advanced on behalf of the revision petitioner are heard. Materials available are perused.

4. The only objection raised by the revision petitioner/first defendant is that the first respondent/proposed second defendant was already represented by the plaintiff Trust and that hence, he need not be impleaded as a party defendant. In fact, the second

respondent/plaintiff had taken a stand before the trial Court that the first respondent herein / the proposed second defendant was set up by the first defendant to file such an application to have the case prolonged as long as possible. The revision petitioner herein/defendant took the opposite plea that the first respondent was set up by the second respondent/plaintiff. The learned trial Judge, considering the rival contentions understanding the position of the first respondent clearly, chose to allow the said application rejecting the objection raised both by the revision petitioner and the second respondent herein.

5. The contention of the revision petitioner cannot be countenanced for the simple reason that the Trust has got a separate juristic personality than the beneficiaries of the Trust. If a beneficiary of the Trust or any person interested in the Trust wants to get impleaded on the premise that the office bearers of the Trust filing the suit are not expected to conduct the case diligently, then the revision petitioner cannot be allowed to contend that the first respondent should not be permitted to get impleaded as a party defendant. It is obvious that as against the impugned order permitting impleadment of the first respondent as second defendant, the second defendant/plaintiff has not filed any revision. On the other hand, the revision petitioner/first defendant alone has filed a

revision. If at all the plaintiff is prepared to seek a decree against the first respondent also, this Court does not find any reason for the panic on the part of the revision petitioner/first defendant to rush to this Court with the present Civil Revision Petition. The very fact that the revision petitioner/first defendant has filed this Civil Revision Petition will show that the intention of the first defendant is to prolong the case. This Court does not find any defect or infirmity in the order passed by the trial Court impleading the first respondent as a party defendant.

Hence, the revision petition is dismissed at the threshold. Since the revision petitioner and the first respondent had taken a plea that an attempt to prolong the case had been made, this Court hereby directs the trial Court to see that the impleaded party, namely the second defendant files his written statement within the time allowed by the statute and proceed with the case and dispose of the same as expeditiously as possible without granting unnecessary adjournments. No costs. Consequently, the connected miscellaneous petition is closed.

26.04.2016

Index: Yes/No
Internet: Yes/No
gpa

To

VII Additional Judge
City Civil Court Judge
Chennai

P.R.SHIVAKUMAR, J.

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