

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM:

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

C.R.P.(P.D.) No.1537 of 2016 and
CMP.No.8346 of 2016

Salvation Army,
Rep. by its Territorial Commander,
Territorial Head Quarters,
Maharaja Nagar Post,
Tirunelveli

...Petitioner

versus

1.Sam Oliver
2.Meehal Sam Oliver

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 27.10.2015 passed in I.A.No.385 of 2015 in O.S.No.117 of 2011 on the file of Principal Subordinate Court, Coimbatore.

For Petitioner : Mr.J.James

For Respondents :No appearance

ORDER

This Civil Revision Petition is directed against the order dated 27.10.2015 in I.A.No.385 of 2015 in O.S.No.117 of 2011 on the file of

Principal Subordinate Court, Coimbatore.

2. Heard the learned counsel for the petitioner. None appears for the respondents in spite of printing their names in the cause list after service.

3. The petitioner filed a suit in O.S.No.117 of 2011 before the District Munsiff Court, Coimbatore against the respondents praying for a decree for recovery of possession and mesne profits. The suit was contested by the respondents.

4. Before the trial Court, the respondents have filed an application in I.A.No.385 of 2015 calling upon the petitioner to produce the resolution passed by the Board of Directors authorising Mr.M.C.James, who is stated to be the Territorial Commander, to prefer the suit. The application was contested by the petitioner on the ground that they have already marked Ex.A.14, which is an authorisation given to file the suit. Even then, the trial Court, by the impugned order dated 27.10.2015, directed the petitioner to produce the resolution passed by the General of the Salvation Army, located at London. Feeling aggrieved, the petitioner has come up with this civil

revision petition.

5.The learned counsel for the petitioner contended that the suit was instituted on the basis of a resolution, which was marked as Ex.A.14. The learned Trial Judge was therefore not correct in directing the petitioner to produce another resolution.

6.The respondents wanted the petitioner to produce the resolution passed by the General of the Salvation Army, based at London. The petitioner made it clear before the Trial Court that the suit was filed on the basis of a resolution. The petitioner further contended that there was no resolution passed by the General of the Salvation Army. Even after taking note of the contention that there was no such resolution, the trial Court directed the petitioner to produce the resolution.

7.The trial Court was not correct in directing the petitioner to produce the resolution passed by the General of the Salvation Army, notwithstanding the stand taken by the petitioner. In fact, the petitioner has taken up a contention that the administrative powers were delegated by virtue of Article 36 of Memorandum of Association

and as such there is no need to obtain the permission of the General of the Salvation Army. Such being the factual position, the learned trial Judge was not correct in allowing the application filed by the respondents. I am therefore of the view that the impugned order is liable to be set aside.

8.In the result, the order dated 27.10.2015 in I.A.No.385 of 2015 in O.S.No.117 of 2011 is set aside.

9.The Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

28.09.2016

Index:Yes/No
dn

To

The Principal Subordinate Judge,
Coimbatore.

K.K.SASIDHARAN, J.

(dn)

C.R.P.(P.D.) No.1537 of 2016

28.09.2016