

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 6/10/2016

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice N.Authinathan
Civil Revision Petition No.3194 of 2016

Mr.Ponniah ... Petitioner/ 7th Respondent/
9th Defendant

Vs

1. Bank of Baroda
ARM Branch
No.10 C.P.Ramasamy Road
Alwarpet
Chennai. ...R1 / Petitioner/ Applicant

2. M/s. R.K.Goldsmith Pvt Ltd
Plot No.E-16 Jewellery Yard Complex
Madras Export Processing Zone
Kadaperi
Tambaram
Chennai 45.

3. Mr.R.Anantha Padmanaban

4. Mrs.A.Chandrakalavathy

Mrs.K.S.Papputhai (Deceased)
Mr.R.Shanmugam (Deceased)

5. Mr.R.S.Rajeshkumar

6. Mr.R.S.Premanand

7. Sundarapandian

8. Ms.Chandra

9. Ms.Ganga

10. Mr.Karthikeyan

11. Ms. Selvi

... Respondents 2 to 11/ R1
to R6 & R8 to R11/

Defendants 1 to 8 and 10 & 11

Prayer: Petition filed under Article 227 of the
Constitution of India against the order dated 13/4/2016 made in
I.A.No.23 of 2016 in O.A.No.237/1997 on the file of DRT - 1,
Chennai.

For petitioner ... Mr.G.Desingu

O R D E R

(Order of the Court was made by S.Manikumar,J)

Heard Mr.G.Desingu, learned counsel for the petitioner.

2. Order impugned in this Civil Revision Petition is the decision of the Debt Recovery Tribunal - I, Chennai, allowing I.A.No.23 of 2016 in O.A.No.237 of 1997, dated 13/4/2016.

3. I.A.No.23 of 2016 has been filed by Bank of Baroda, Chennai for the following reliefs:-

"a. Permit to bring on record and implead the legal heirs of Mrs.Papputhai, the fourth defendant in O.A.No.237 of 1997 namely (i). Mr.Sundarapandian; (ii). Mr.Ponnaiah; (iii). Ms.Chandra; (iv). Ms.Ganga; (v) Mr.Karthikeyan and (vi). Ms.Selvi;

b. Permit to amend the cause title in O.A.No.237 of 1997 by arraying the legal heirs of the fourth respondent as the proposed 8th to 13th respondents/defendants."

4. Impugned order reads as follows:-

Passed over two times. Ld. Counsel for the petitioner present. No representation for the respondents.

The matter is again called at 2.30 p.m. No representation for the respondents. Counter in this I.A not filed. This application has been filed to bring the legal heirs of deceased D.4 on record and to make consequential amendment. Despite sufficient opportunities, counter not filed. Hence it is treated that the respondents have no counter in this I.A. Heard the Ld. Counsel for the petitioner. I.A is allowed. Applicant Bank is directed to carry out necessary amendment and to file amendment neat copy by 26/4/2016, without fail."

5. Perusal of the above shows that though adequate time was given, respondents therein had not filed any counter affidavit, opposing the averments and the prayer sought for in I.A.No.23 of

2016. Therefore, by treating that the respondents have no objection, vide order, dated 13/4/2016, Debts Recovery Tribunal - I, Chennai, has allowed I.A.No.23 of 2016, to bring on record and implead the legal representatives of Mrs.S.Paputhai/fourth respondent, in O.A.No.237 of 1997, and also to amend the cause title.

6. Though Mr.G.Desingu, learned counsel for the petitioner contended that the Tribunal has miserably failed, to consider that application has been filed, after a period of three years and therefore, the Tribunal ought to have addressed the aspect of limitation, we are not inclined to accept the said contention for the reasons that there was no objection on the part of the petitioner to the prayer sought for.

7. Material on record further discloses that M.A.Nos.10 to 13 of 2013 have been filed by the petitioner and others, for the following prayers:-

a. M.A.No.10 of 2013 is filed by the petitioners to condone the delay of 1210 days in filing the application to set aside the final order dated 28/7/2005 passed in O.A.No.237 of 1997.

b. M.A.No.11 of 2013 is filed by the petitioners to set aside the exparte final order dated 28/7/2005 passed in O.A.No.237 of 1997.

c. M.A.No.12 of 2013 is filed by the petitioners to implead the petitioners, being the legal heirs of deceased 4th defendant, as defendants in O.A.No.237 of 1997.

d. M.A.No.13 of 2013 is filed to stay the operation of the final order dated 28/7/2005 passed in O.A.No.237 of 1997 and the consequential proceedings in D.R.C.No.133 of 2005."

8. It is also seen that when the petitioner has filed a petition to bring on record the legal representatives of the fourth defendant therein, the same has been allowed. Except M.A.No.13 of 2013 filed for stay, other applications have been allowed.

9. After giving sufficient opportunity and in the absence of counter affidavit, the Tribunal has allowed I.As. In view of the above, we are not inclined to interfere with the order passed by the Debts Recovery Tribunal -I, Chennai.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition No.16219 of 2016 is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

mvs.

To

1. Debt Recovery Tribunal - 1,
Chennai.
2. Bank of Baroda
ARM Branch
No.10 C.P.Ramasamy Road
Alwarpet
Chennai.

1 cc to Mr.G.Desingu, Advocate, Sr. 57476

Civil Revision Petition No.3194 of 2016

GJ (CO)
kk 9/11

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