

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2016

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THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) Nos.4172 and 4173 of 2013
and M.P.No.1 of 2013 in C.R.P.(PD) No.4172 of 2013

S.R.Balakrishnan ... Petitioner in both CRPs.
vs.

1. S.R.Subramaniyan ... Respondent in both CRPs.

2. M/s. Central Bank of India,
Main Branch, near Axis Bank Ltd.,
Sabapathipuram, Tiruppur. ... 2nd Respondent in
CRP PD No.4172 of 2013

Prayer in CRP PD No.4172/13: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 10.09.2013 made in I.A.No.636/2013 in O.S.No.28/2012 on the file of the Principal District Judge, Tiruppur.

Prayer in CRP PD No.4173/13: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 10.09.2013 made in I.A.No.637/2013 in O.S.No.28/2012 on the file of the Principal District Judge, Tiruppur.

For Petitioner : Mr.S.Mukund
for M/s.Sarvabhauman Asso.

For Respondents : Mr.S.Kalyanaraman (for R1)

COMMON ORDER

Civil Revision Petition No.4172 of 2013, has arisen out of an order dated 10.09.2013 dismissing the application in I.A.No.636 of 2013 seeking impleadment of the proposed party / respondent viz., Central Bank of India, Tiruppur, as the 2nd defendant in O.S.No.28 of 2012 on the file of the learned Principal District Judge, Tiruppur.

2. Civil Revision Petition No.4173 of 2013, has arisen out of an order dated 10.09.2013 dismissing the application in I.A.No.637 of 2013 filed by the plaintiff seeking permission to amend the plaint in O.S.No.28 of 2012 on the file of the learned Principal District Judge, Tiruppur.

3. Both the Civil Revision Petitions are heard together and disposed of by a common order.

4. The plaintiff in the Original Suit is the petitioner in the Civil Revision Petitions. The 1st respondent is the defendant in the Original Suit. The suit has been filed for specific performance of an alleged agreement by which the 1st respondent/defendant allegedly agreed to execute a release deed in favour of the petitioner herein/plaintiff in respect of his half share in the suit

property. During the pendency of the suit, the petitioner herein / plaintiff chose to file an application in IA.No.637 of 2013 for amendment of the plaint so as to include more number of properties, which admittedly were not the subject matter of the agreement for release. The same was resisted by the first respondent/defendant.

5. Besides seeking permission to effect such amendment, the petitioner/plaintiff has pleaded for an order to implead the 2nd respondent viz., Central Bank of India as a party defendant, who has advanced loan to the 1st respondent/defendant, by filing I.A.No.636 of 2013. The said application was resisted by the plaintiff as well as the bank.

6. The learned trial Judge, at the conclusion of enquiry, dismissed both the applications holding that the scope of the suit was sought to be unnecessarily enlarged and that the 2nd respondent bank was not a necessary party, on the premise that in case of execution of release deed the parties can work out the mode of discharging the loan due to the bank. The said order is challenged by the plaintiff in this Civil Revision Petition not under Section 115 CPC, but under Article 227 of the Constitution of India.

7. The arguments advanced by Mr.S.Mukund, learned counsel for the

petitioner and Mr.S.Kalyanaraman, learned counsel for the 1st respondent are heard. The grounds of revision, copies of documents produced in the form of typed set of papers are also perused.

8. The scope of revision under Section 115 of CPC, came to be restricted by an amendment with a view to discourage unnecessary challenges made to interim / interlocutory orders. Now, it has become the order of the day, to invoke the power of superintendence of the High Court under Article 227 of the Constitution of India as against each and every interlocutory order. The power of superintendence under Article 227 of the Constitution of India, cannot be allowed to be invoked to expand the scope of revision, which has been restricted by the amendment of Section 115 of CPC for the acclaimed purpose indicated supra. Keeping the same in mind, the reliefs sought for in the present Civil Revision Petitions are approached.

9. The petitioner herein/plaintiff has filed the suit for specific performance of an alleged agreement whereby the 1st respondent promised to release his 1/2 share in a particular property alone. That particular property alone was made the subject matter of the suit. Now, by filing a petition for amendment, the petitioner / plaintiff wants to include more number of properties which have got nothing to do with the relief sought for in the plaint.

Similar is the prayer regarding impleadment of the secured creditor viz., Central Bank of India. Nothing more need to be added to hold that there is no scope for interfering with the orders of the trial Court and that the Civil Revision Petitions are liable to be dismissed.

10. Accordingly, the Civil Revision Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

12.02.2016

Index: Yes/No
Internet: yes/No
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To

The Principal District Judge,
Tiruppur.

P.R.SHIVAKUMAR.J.,

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