



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

WEB COPY

CRP (MD).No.525 of 2016 and CMP(MD).No.2236 of 2016

C. Kumar : Revision Petitioner
Vs.
N. Chellathurai : Respondent

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated, 22.12.2015 made in I.A.No.91 of 2015 in RCOP.No.3 of 2012, on the file of the learned Principal District Munsif, Nagercoil.

For Petitioner

: Mr. K.P. Narayanakumar

ORDER

The Civil Revision Petition is filed against the fair and decreetal order, dated 22.12.2015 made in I.A.No.91 of 2015 in RCOP.No.3 of 2012, on the file of the Principal District Munsif, Nagercoil

2. The revision petitioner is the second respondent in RCOP.No.3 of 2012. The respondent herein filed said RCOP against one T.Chockalingam, father of the petitioner herein and the petitioner. The petitioner filed a memo in the RCOP stating that his father, first respondent in RCOP, died on 19.07.2015. The respondent filed a memo to that effect that the petitioner is the legal representative of the deceased T. Chockalingam and therefore, no necessity to implead the other legal heirs. The petitioner then filed I.A.No.91 of 2015 to reopen the order passed in the memo filed on 08.09.2015, for a direction to the respondent to implead the legal heirs of the first respondent, T. Chockalingam in the main RCOP. The respondent herein filed counter affidavit and opposed the same. The learned Judge considering the facts and circumstances, dismissed the Interlocutory application. Against that the present revision is filed.

3. The learned counsel for the petitioner submitted that the leasehold right of the deceased T. Chockalingam devolves on his legal representatives and therefore, they are also necessary parties. The petitioner alone cannot be burdened with rights and liabilities of T.Chockalingam and subsequently, his legal representatives. The learned Judge has ample power to implead the necessary parties in the RCOP.

4. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.



5. From the materials available on record it is seen that the RCOP has been filed against one T. Chockalingam and his son, petitioner herein. The petitioner is looking after the business in the petition premises. According to the respondent, the petitioner as a legal heir of T. Chockalingam, he is entitled to agitate the rights of T. Chokalingam and other legal heirs. The respondent is at liberty to implead the parties, according to him who are necessary parties. The question whether the necessary party is before the Court or not and whether that is fatal to the claim of the respondent has to be considered at the time of passing final order in the RCOP. The petitioner cannot force the respondent to implead the other legal representatives.

6. The learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons for dismissing the Interlocutory Application. Further the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

7. In the result, the Civil revision petition is dismissed confirming the impugned order dated 22.12.2015 made in I.A.No.91 of 2015 in RCOP.No.3 of 2012, on the file of the learned Principal District Munsif, Nagercoil. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To
The learned Principal District Munsif, Nagercoil.

+1cc to M/S.K.P. Narayana Kumar, Advocate SR.No.12941

CN/JGB-DP/23.3.2016/2P-3C

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