



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

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C.R.P. (MD) Nos.357 of 2013, 2415 and 2516 of 2008 and
1616 of 2012

C.R.P. (MD) No.357 of 2013

1.M/s V.T.M.Limited,
Having its registered office at
Sulakkarai, Virudhunagar-3.
(Through its Chairman T.Kannan)
2. T.Kannan ... Petitioners/Petitioners/Appellants
Vs.

1.M/s Ramavilas Spinning and Weaving Mills Private Limited,
Sulakkarai,
Having its Registered Office at
105, Moongapadi Street,
Gugai, Salem-6.
(Through its Managing Director)
Sri.L.Ramakrishna Chettiar(dead)

2.Director Sri.L.R.M.Ramakrishnan,
S/o R.M.K.Ramanathan, 105, Moongapadi Street,
Gugai, Salem-6.

3.Director Sri.L.R.M.K.L.Ramakrishnan,
S/o L.RMK.Lakshmana Chettiar,
105, Moongapadi Street,
Gugai, Salem-6.

Sri V.S.Rao (exonerated) ... Respondents/Respondents

P.R.Subramaniya Chetty (dead)

4.Sri.M.Ananthakrishnan
C/o V.T.Mills Ltd.,Sulakkarai, Virudhunagar-3.

5.Sri.R.M.Somasundaram,
S/o S.M.Ramanatha Chettiar,
C/o V.T.Mills Ltd.,Sulakkarai, Virudhunagar-3.

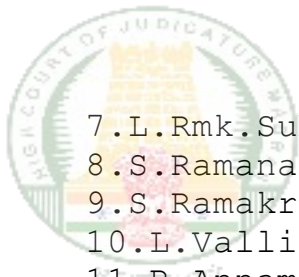
6.L.N.V.Subramaniyan
C/o V.T.Mills Ltd.,
Sulakkarai,
Virudhunagar-3. ... Respondents/Petitioners/Appellants

<https://hcservices.ecourts.gov.in/hcservices/>

Respondents 4 to 6 are given up.

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C.R.P. (MD) No. 2415 of 2008



7.L.Rmk.Subramanian
 8.S.Ramanathan
 9.S.Ramakrishnan
 10.L.Valliappan
 11.R.Annamalai

... Respondents 7 to 11/Respondents 7 to 11/
 Proposed Respondents 7 to 11

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Respondents 7 to 11 were set exparte before the lower Court and hence service of notice on them in this revision may be dispensed with)

Prayer: Petition is filed under Article 227 of Constitution of India against the fair order and decretal order of the learned Subordinate Judge, Aruppukkottai passed in I.A.No.105 of 2004 in A.S.No.11 of 2003 on his file dated 02.07.2008.

For Petitioners : Mr.S.Parthasarathy

For Respondents : Mr.Babu Rajendran
 for R.1 and R.2

: No Appearance

for R. 3 to R.5

: R.7 to R.11 dispense with

C.R.P. (MD) No.2516 of 2008

1.Sree Ramavilas Spinning and Weaving Mills (P) Ltd.,
 Soolakkarai, Virudhunagar-3,
 Having its registered office at
 No.105, Moongaippadi Street, Gugai,
 Salem-6 through its Managing Director

L.Ramakrishnan (dead)

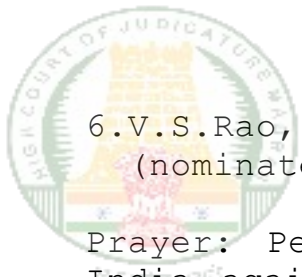
2.R.M.Ramakrishnan
 Director, Sree Ramavilas Spinning and Weaving Mills (P) Ltd.,
 Soolakkarai, Virudhunagar-3.

3.L.Rmk.L.Ramakrishnan,
 Director, No.105, Moongaippadi Street, Gugai,
 Salem-6 ... Petitioners /Petitioners/
 Appellants 1,3 and 4

Vs.

1.M/s Virudhunagar Textiles,
 Soolakkarai, Virudhunagar-3
 represented by its Chairman
 T.Kannan

2.T.Kannan, Chairman,
 3.M/s Arumugam & Co., Director,
 4.R.M.Somasundaram, Director,
 5.L.N.V.Subramaniam, Director,



6.V.S.Rao, Director
(nominated by IDBI)

...Respondents/Respondents/Respondents

Prayer: Petition is filed under Article 227 of Constitution of India against the fair order and decreetal order of the learned Subordinate Judge, Aruppukkottai passed in I.A.No.117/2005 in A.S.No.11 of 2003 on his file dated 02.07.2008.

For Petitioners : Mr.S.Parthasarathy
For Respondents : Mr.Babu Rajendran
for R.1 and R.2
: No Appearance
for R. 3 to R.5

C.R.P. (MD) No.1616 of 2012

1.Sree Ramavilas Spinning and Weaving Mills (P) Ltd.,
Soolakkarai, Virudhunagar-3,
Having its registered office at
No.105, Moongapadi Street, Gugai,
Salem-6 through its Managing Director

L.Ramakrishnan (dead)

2.R.M.Ramakrishnan

3.L.Rmk.Ramakrishnan ... Revision Petitioners/Respondents 1 to 4/
Respondents 1 to 4
Vs.

1.M/s Virudhunagar Textiles Mills Ltd., through its Chairman
Sri.T.Kannan, Soolakkarai, Virudhunagar-3
represented by its Chairman T.Kannan

2.T.Kannan,

P.R.Subramanian Chettiar (died)

3.M.Anandhakrishnan,

4.R.M.Somasundaram,

5.L.N.V.Subramaniam, ... Respondents 1 to 6/Petitioners 1 to 6/
Appellants 1 to 6

6.V.S.Rao,

IDBI, Annasalai, Chennai.

(Exonerated by memo dated 05.03.2004)

... Respondent No.5 in I.A./Appellant No.5

(Since respondent No.6 has been exonerated, notice to him may be dispensed with).

Prayer: Petition is filed under Article 227 of Constitution of India against the fair order and decreetal order of the learned Subordinate Judge, Aruppukkottai dated 06.08.2011 passed in

<https://hccr.resnet.gov.in/0004> in A.S.No.15/2003 on her file.



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For Petitioners : Mr.S.Parthasarathy
for Mr.T.V.Sivakumar
For Respondents : Mr.Babu Rajendran
for R.1 and R.2
: R.6 dispense with
* * * * *

COMMON ORDER

Suit in O.S.No.153 of 1997 was moved on the file of the learned District Munsif, Aruppukkottai was preferred seeking specific performance. The plaintiffs were shown as follows:

1.Sree Ramavilas Spinning & Weaving Mills(P) Ltd.,
Sulakkarai, Virudhunagar-3, through its
Managing Director Sri.L.Ramakrishnan.

2.Managing Director L.Ramakrishnan Chettiar

3.Director RM.Ramakrishnan

4.Director L.RMK.L.Ramakrishnan

2. In the suit, following reliefs were prayed for:

(1) directing the defendants to execute a registered sale deed in respect of the plaint 2nd schedule property in favour of the plaintiffs or in favour of the 2nd plaintiff L.Ramakrishnan Chettiar within a time to be fixed by this Honourable Court or to have it done through the process of Court and recover the cost from them.

(2) Consequently directing the defendants to deliver possession of the plaint 2nd schedule property either to the plaintiffs or to the 2nd plaintiff L.Ramakrishnan Chettiar.

(3) directing the defendants to pay cost of this action to the plaintiffs."

3. One of the issues framed therein was "whether the suit was bad for mis-joinder or non-joinder of parties?"

4. Such issue arose because the defendants raised a contention that Ex.P.5, receipt, stood in the name of L.Ramakrishnan Chettiar and the same did not disclose the names of the first plaintiff Company or the plaintiffs 3 and 4 as nominees, the second plaintiff had been shown to be the representative of the first plaintiff Company, the suit had not been filed by the individual L.Ramakrishnan Chettiar, in whose name Ex.P.5-receipt stood and the persons shown as plaintiffs did not find mention in Ex.P.5.

5. On consideration, the trial Court held that the second plaintiff indeed had filed the suit in his individual capacity but under judgment dated 18.12.2002, trial Court for reasons stated, dismissed the suit and directed the petitioners herein to repay the advance amount of Rs.1001/- to the plaintiff with interest.

6. Aggrieved, plaintiffs moved appeal in A.S.No.11 2003, on <https://hcservices.courts.gov.in/hcservices/> before the Subordinate Judge, Aruppukkottai. Aggrieved by their being required to repay the amount of Rs.1001/- with interest there on, defendants preferred appeal in A.S.No.15 of

2003 before the same Court.

7. The said L.Ramakrishnan Chettiar died on 12.08.2003. By way of I.A.No.105 of 2004 in A.S.No.11 of 2003, appellants/plaintiffs sought to implead petitioners 5 to 7 and respondents 7 to 12 as legal representatives of the deceased L.Ramakrishnan Chettiar.

8. Subsequent to the filing of counter and hearing of arguments therein, Court below dismissed the said I.A. on the reasoning that the original plaintiff L.Ramakrishnan Chettiar had represented the first plaintiff Company in his capacity as Managing Director thereof and as such, only the representative of the Company could be impleaded in his place. It further held that petitioners before it, could not seek to implead only themselves on the basis of the will allegedly executed in their favour by L.Ramakrishnan Chettiar and exclude other legal heirs. Aggrieved thereby, the appellants in A.S.No.11 of 2003 have preferred C.R.P. (MD)No.2415 of 2008.

9. I.A.No.117 of 2005 was preferred by appellants in A.S.No.11 of 2003 seeking two reliefs viz., (i) impleading Smt.L.Rmk.Valliammai Achi, wife of Late L.Ramakrishnan Chettiar as representing the first appellant/plaintiff Company on assertion that she has been elected as Director and thereafter appointed Managing Director of the said Company and (ii) to amend the name of the first respondent /first defendant Company as "VTM" instead of Virudhunagar Textiles Mills".

10. Observing that no application for setting abatement under Order 22 Rule 3 C.P.C. had been made towards impleading Smt.L.Rmk.Valliammai Achi, wife of Late L.Ramakrishnan Chettiar and as representing the first appellant/plaintiff Company and that no proof of the first respondent Company having undergone any change of name had been provided, the Court below dismissed application in I.A.No.117 of 2005, where against C.R.P. (MD)No.2416 of 2008 stands preferred.

11. Under I.A.No.23 of 2004, the plaintiffs/respondents in A.S.No.15 of 2003 sought to alter the cause title towards informing that the second respondent viz., L.Ramakrishnan Chettiar as '(deceased)'. On the same being allowed by order dated 06.08.2011, defendants/appellants in A.S.No.15 of 2003 have preferred C.R.P. (MD) No.1616 of 2012. On the other hand, it is the contention of plaintiffs that defendants ought to have impleaded the legal heirs of L.Ramakrishnan Chettiar as party respondents in their appeal.

12. C.R.P. (MD)No.357 of 2013 arises against the dismissal of I.A.No.58 of 2012 wherein stay of proceedings in A.S.No.15 of 2013 had been sought.

13. Heard learned Counsel for petitioners and learned Counsel for respondents.

14. Learned Counsel for the petitioners in C.R.P. (MD)Nos.2415 and 2416 of 2008 has contended that though the trial Court had held that the plaintiffs in O.S.No.153 of 1997, there was a specific finding that Late L.Ramakrishnan Chettiar had been arrayed as second plaintiff in the suit in his individual

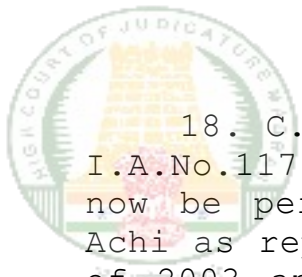


capacity. In rendering a finding that he had been arrayed as plaintiff only in his capacity as Managing Director of the first plaintiff Company, Court below virtually had held in favour of respondents and in a manner which tantamounts to accepting their plea in appeal moved by them in A.S.No.15 of 2003. In the face of the finding of the trial Court, the application in I.A.No. 105 of 2004 towards impleading the legal heirs of Late L.Ramakrishnan Chettiar on the basis of the will executed by him ought to have been allowed. The learned Counsel submitted that first appellant was a Company which would not suffer death on the demise of Late. L.Ramakrishnan Chettiar. I.A.No.117 of 2005 was filed towards bringing on record the wife of L.Ramakrishnan Chettiar, who now is the Managing Director as its representative filed appeal. Learned counsel contents that Court below found that Order 22 Rule 3 C.P.C. had not been complied with, since such provision had not occasioned. Giving the finding of trial Court of L.Ramakrishnan Chettiar having been arrayed as 2nd defendant in his individual capacity, respondents/defendants upon his demise ought to have been impleaded as legal heirs in their appeal A.S.No.15 of 2003.

15. Learned Counsel for respondent in C.R.P.(MD)Nos.2415 and 2416 of 2008 and petitioner in C.R.P.(MD)No.357 of 2013 submitted that the decision of the trial Court regards Late.L.Ramakrishnan Chettiar having preferred the suit and as second plaintiff in his individual capacity was the subject-matter of appeal and hence, such pending would not hold good. He would support the finding of the Court below in the application before it.

16. On consideration of rival contentions, this Court is of the view that the finding of the trial Court in O.S.No.153 of 1997 that L.Ramakrishnan Chettiar as second plaintiff had entered upon the suit also in his individual capacity, would hold good, till such finding is set aside. While so, application to implead his legal heirs ought to have been favourably entertained. If the Court below is of the view that all legal heirs ought to have been arrayed as representatives, it could well have required the petitioners to satisfy such requirement. This Court is of the view that the application seeking to implead the wife of L.Ramakrishnan Chettiar as the representative of the first appellant company in the appeal in A.S.No.11 of 2003 also ought to have been permitted. In response to specific query of this Court, counsel on the other side confirms that the name of the first respondent company in A.S.No.11 of 2003 stands changed to be "VTM". Therefore, the amendments sought there regards also ought to have been allowed. Appellants in A.S.No.15 of 2003 would have to be permitted to seek amendment of the cause title to implead the legal heirs of L.Ramakrishnan Chettiar as respondents in the appeal.

17. Accordingly, C.R.P.(MD)Nos.2415 of 2008 shall stand allowed and the order in I.A.No.105 of 2004 shall stand set aside. The respondents shall now be permitted to implead all legal heirs of Late L.Ramakrishnan Chettiar as party-appellants in A.S.No.11 of 2003.



18. C.R.P.(MD)No.2416 of 2008 shall stand allowed and order in I.A.No.117 of 2005 shall stand set aside. The petitioners shall now be permitted to substitute the name of Smt.L.Rmk.Valliammai Achi as representative of the first appellant Company in A.S.No.11 of 2003 and to substitute the name of "VTM" as first respondent instead of as "Virudhunagar Textiles Mills" as originally filed.

19. C.R.P.(MD)No.1616 of 2012 stands allowed and consequently the order in I.A.No.23 of 2004 shall stand set aside. Petitioners herein shall now be permitted to move an application towards impleading all the legal heirs of Late L.Ramakrishnan Chettiar as party-respondents in A.S.No.15 of 2003.

20. C.R.P.(MD)No.357 of 2013 shall stand closed.

21. Since both the appeals in A.S.No.11 of 2003 and A.S.No.15 of 2003 arise against the judgment of the trial Court in O.S.No.153 of 1997, it would be appropriate that the same should be taken up and heard together. Accordingly, the Court below is directed to do so. Considering the fact that the original action is of the year 1997 and the appeals have been pending for a considerable period, the Court below is directed to dispose of both the appeals as expeditiously as possible and not later than three months from the date of receipt of a copy of this order. The present order is made only towards disposal of the present Civil Revision Petitions and shall not have any bearing on the merits of the appeals pending before the Court below. It is open to both sides to raise all contentions there before.

22. There shall be no order as to costs

Sd/-

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

The Subordinate Court, Auppukkottai.

+1cc to M/s.Babu Rajendran, Advocate in SR.22359

+1cc to Mr.S.Parthasarathy, Advocate SR.22718

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C.R.P.(MD)Nos.357 of 2013, 2415 and 2516 of 2008 and
1616 of 2012
20.04.2016