

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1872 of 2017
& C.M.P.No.8985 of 2017

D. Krishnamurthy

.. Petitioner

Vs.

1. Sri Sureswarar Devasthanan,
Damalwar St., Kanchipuram
Represented by Hereditary Managing
Trustee, Govindasamy Chettiar.

2. The Commissioner,
HR & CE Department
No.119, Uthamar Gandhi Salai,
Chennai – 34.

3. The Joint Commissioner,
HR & CE Department,
Vellore – 9.

4. The Assistant Commissioner,
HR & CE Department,
Collector Office Campus,
Kanchipuram – 1.

5. The State Represented by
The District Collector,
Kanchipuram District,
Kanchipuram – 1

6. G. Raghuraman @ Raghu,

7. G.Jeyasree,

8. Sri Sureswarar Dewasthananm,
Damalwar St., Kanchipuram
Represented by its Original Hereditary
Managing Trustee K.Krishnamurthy,
S/o. Kanniaya Chettiar,
No.20-D/24, Kamarajar Nagar,
Kanchipuram.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 09.09.2015 made in I.A.No.296 of 2014 in O.S.No.266 of 2001 on the file of Hon'ble Additional District Munsif at Kanchipuram.

For Petitioner : Mr.G.K.Sekar

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 09.09.2015 made in I.A.No.296 of 2014 in O.S.No.266 of 2001 on the file of learned Additional District Munsif at Kanchipuram.

2. The petitioner is the defendant and the first respondent is the plaintiff and the respondents 2 to 8 are the proposed parties.

The first respondent filed O.S.No.266 of 2001 for a direction to the petitioner to vacate and hand over the vacant possession of the suit property to the first respondent and for a direction to pay a sum of Rs.360/- to the first respondent in O.S.No.266/2001. The petitioner filed written statement in the month of December 2002 and is contesting the suit. After framing the issues, the trial commenced, and the first respondent was examined as P.W.1 and marked 30 documents, as Ex.A.1 to Ex.A.30. At that stage, the petitioner filed I.A.296 of 2014 under Order 1 Rule 10(2) and Section 151 of CPC to implead the respondents 2 to 8, as the defendants 2 to 8 in O.S.266 of 2001.

3. According to the petitioner, the suit property belongs to the temple and temple was taken over by the second respondent, H.R.&.C.E Department. The salary of Archagar being paid by the Government. The first respondent is not the original managing trustee and the respondents 6 and 7 are the persons belong to the family of the original trustees and therefore, they are necessary and proper parties to the suit. Hence the petitioner filed I.A.No.296 of 2014 to implead the proposed respondents 2 to 8 in O.S.No.266 of 2001.

4. The first respondent opposed the said application and submitted that temple is not taken over by the H.R.&.C.E. Department and originally his father was administering the temple and thereafter, first respondent is administering the temple. The first respondent before filing the suit, issued notice to the petitioner on 12.04.2001 and the petitioner sent reply notice on 07.05.2001. In the reply notice, the petitioner has admitted the title with regard to the suit property and the petitioner has filed number of applications to drag on the proceedings from the year of 2001. The H.R.&.C.E. Department not taken the management of temple. Therefore, the respondents are not necessary or proper parties to the suit.

5. The learned Judge considering the averments made in the affidavit, counter affidavit dismissed the application holding that the petitioner continuously filing petitions to drag on the proceedings, and respondents 2 to 8 are not necessary and proper parties for adjudication of the case on hand.

6. Against the order of dismissal dated 09.09.2015 made in I.A.No.296 of 2014, the present civil revision petition is filed by the petitioner.

7. Heard the learned counsel for the petitioner and perused the materials available on record.

8. From the records it is seen that previously the first respondent filed R.C.O.P.No.46 of 1986 against the petitioner. In C.R.P.No.1739 of 1993, the R.C.A.No.6 of 1993 was allowed and order passed in R.C.O.P No.46 of 1986 dated 30.04.1999 was set aside and this Court directed the landlord to file a suit for recovery of possession and it is observed that it is open to the respondent to file a separate suit for recovery of possession.

9. As per order passed in C.R.P.No.1739 of 1993, the first respondent filed the present suit. After commencement of trial, the petitioner has filed an application for impleading the respondents 2 to 8 on the ground that first respondent is not owner of the property, and only H.R.&.C.E Department is in administration of the temple. This contention is without merits, as the petitioner has

admitted title of the temple in reply notice dated 07.05.2001 and has not produced any document to show that temple is taken over by the H.R.&C.E.,herein and administered by the respondents 6 and 7.

10. The learned Judge considering all the materials available on record dismissed the application by giving cogent and valid reasons. In these circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned Additional Munsif, Kanchipuram in I.A.No.296 of 2014 dated 09.09.2015.

11. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.06.2017

Speaking Order/Non-speaking Order
Index :Yes/No
av / ssd

To

The Additional District Munsif,
Kanchipuram

V.M.VELUMANI, J.

av / ssd

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