

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.4037 of 2011

The Hindu Religious & Charitable Endowment Board
Rep.by its Inspector HR & CE
R.Gopalakrishnan,
Hosur.

.. Petitioner

Vs.

- 1.Annayappa
- 2.Anusuy Bai
- 3.R.Krishnamurthy
- 4.R.Nagendra
- 5.R.Sudeendra
- 6.R.Raghavendra
- 7.Prabavathi
- 8.Muthurayappa
- 9.Ramappa
- 10.Muniappa
- 11.Narasumappa
- 12.Venkatamma
- 13.Subbamma
- 14.Lakshmiaya
- 15.Jayaram
- 16.Lokesh

.. Respondents

WEB COPY

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 10.02.2011 made in I.A.No.36 of 2009 in A.S.No.35 of 2008 on the file of the Court of the Sub Court, Hosur.

For Petitioner : Mr.V.Lakshminarayanan

For R1 : No Appearance

For R2 to R8 : No Appearance

For R9 to R16 : Mr.S.Mahaveer

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 10.02.2011, made in I.A.No.36 of 2009 in A.S.No.35 of 2008 on the file of the Court of the Sub Court, Hosur.

2.The petitioner is the third party and respondents are the plaintiffs in O.S.No.303 of 1982, on the file of the District Munsif Court, Hosur. The petitioner is the third party, first respondent is the appellant and respondents 2 to 16 are the respondents in A.S.No.35 of 2008, on the file of the Sub Court, Hosur. The petitioner filed I.A.No.36 of 2009 under Order 1 Rule 10 and Section 151 of CPC, for impleading the petitioner herein in the above appeal as a party. According to the petitioner, the suit property belongs to one Geraga Devada Temple situated in SingaSadhanapalli Village, Hosur Taluk. The land in S.No.40/1, measuring to an extent of 3.83.5 Hectare is in the name of the temple. The Government has issued Title Deed in TD.No.530, which is dated 24.10.1862. In the year 1936, an order was passed by the Revenue Authority in favour of the temple. The

property has been endowed to the temple. In view of the same, the petitioner is necessary and proper party to the proceedings. The petitioner came to know about the suit and appeal only one month before filing of the present First Appeal and prayed for impleading the petitioner as a party in the First Appeal.

3.The first respondent/plaintiff did not file any counter affidavit. The 9th respondent filed counter affidavit and the same was adopted by the respondents 2 to 8 and 10 to 16. According to the respondents 2 to 16, the suit properties were given to the second respondent's father, Krishna Rao, 100 years ago by the Government and from that day onwards, the said Krishna Rao and his descendants are in possession and enjoyment of the suit property without any interference. They have filed Exs.B19 to B21. Patta was issued to the 2nd respondent and the same has been confirmed by the authorities.

4.The learned Judge, considering the averments in the affidavit, counter affidavit and the materials on record and earlier order in C.M.A.(I.A.T)No.1 of 1984 and judgment in STA.No.12 of 1987, dismissed the application.

5. Against the said order 10.02.2011, made in I.A.No.36 of 2009 in A.S.No.35 of 2008, the petitioner has come out with the present Civil Revision Petition.

6. Heard the learned counsel appearing for the petitioner as well as the respondents 9 to 16 and perused the materials available on record. Though notice has been served on the respondents 1, 2 to 8, there is no representation either in person or through counsel.

7. From the materials available on record, it is seen that in the application filed under Order 1 Rule 10 of CPC for impleading, the Court has to consider whether the party is necessary or proper party to decide the issue in the suit. The petitioner has come out with the application on the ground that the suit property belongs to the temple and the function of the temple are carried on by the donation received from the general public and the temple is public temple. The learned Judge, did not consider the contention of the petitioner and dismissed the application based on the earlier proceedings in C.M.A.(I.A.T)No.1 of 1984 and STA.No.12 of 1987 and no opportunity was given to the petitioner to put forth their case. Even in the two suits filed by the first respondent against the other respondents, the petitioner was not made as a party. In order

to give an opportunity to the petitioner to put forth their case on merits, the Civil Revision Petition is liable to be allowed and the order of the learned Subordinate Judge, Hosur dated 10.02.2011 made in I.A.No.36 of 2009 is liable to be set aside.

8. Accordingly, impugned order dated 10.02.2011 is set aside and this Civil Revision Petition is allowed. No costs. The suit is of the year 2008. The learned Subordinate Judge, Hosur, is directed to give instructions to the Registry to carry out the amendment and direct the first respondent to file the amended copy of the plaint within a period of four weeks from the date of receipt of a copy of the amendment and dispose the appeal within a period of three months thereafter.

सत्यमेव जयते

20.11.2017

Index: Yes/No

dna/gsa

To

The Subordinate Judge,
Hosur.

WEB COPY

V.M.VELUMANI,J.

dna



C.R.P.(NPD)No.4037 of 2011

WEB COPY

20.11.2017