

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.07.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CRP(PD)No.2864 of 2012

Tittakudi A/m Vaidyanathasami Thirukoil,
Repd. by its Executive Officer, Tittakudi.

.. Petitioner

Vs.

1.Sandanavelan

2.Vadamalai

3.Pandian

4.Srinivasan

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order in I.A.No.502 of 2011 in O.S.No.87 of 2010, dated 18.01.2012, on the file of the Principal Sub-Judge, Vridhachalam.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.V.Ayyadurai (for R1)

No Appearance (for R2 to R4)

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order and decretal order in I.A.No.502 of 2011 in O.S.No.87 of 2010 dated 18.01.2012, on the file of the Principal Sub-Judge, Virudhachalam.

2.The instant Civil Revision Petition is filed by the revision petitioner/proposed party as against the dismissal order of impleading petition. The case of the revision petitioner is that the 1st Respondent/Plaintiff filed a suit for declaration and permanent injunction against the respondents 2 to 4 herein on the file of the Principal Sub-Court, Virudhachalam.

3.According to the revision petitioner the suit property comprised in survey No.63/4 of Tittakudi Village belongs to the petitioner's temple and the patta also stood in the name of the Temple vide Patta No.4 and the same is in existence in the name of the temple as on today. When the facts are being so, the plaintiff without impleading the temple as one of the defendant in the suit, filed the suit for

declaration and permanent injunction which is bad in law. Therefore, the revision petitioner namely Tittakudi Arulmigu Vaidyanathasami Thirukoil through its Executive Officer filed an application in I.A.No.502 of 2011 to implead the temple as 4th defendant in the suit.

4.The said application was opposed by the 1st Respondent/Plaintiff by filing counter affidavit. It is the case of the 1st respondent herein that he has not sought for any relief against the revision petitioner in the suit filed by him. The suit is instituted against the respondents 2 to 4 herein and the issues to be decided in the said suit is that whether the alleged sale deeds referred by the defendants are genuine or not? Therefore, the presence of the temple/revision petitioner is not at all necessary to decide the issue involved in the said suit. The present impleading application is filed only to delay the disposal of the suit. The plaintiff is in possession over the suit property by putting tiled house, since 1990.

5.The learned trial Judge after careful consideration of the case on either side dismissed the impleading petition filed by the revision petitioner by order dated 18.01.2012 which is impugned in this Civil Revision Petition.

6.I have heard Mr.V.Raghavachari, learned counsel for the revision petitioner and Mr.V.Ayyadurai, learned counsel appearing for the 1st respondent and there is no representation on behalf of the respondents 2 to 4 and perused all the materials available on record.

7.According to the learned counsel for the revision petitioner the suit schedule property in Survey No.63/4 belongs to Tittakudi Arulmighu Vaidyanathasami Thirukoil. The Patta for the suit property is also standing in the name of the temple. Therefore, the temple is a just and necessary party to the suit filed by the 1st respondent herein.

8.To support his contention, the learned counsel for the revision petitioner relied on my Judgment reported in **2017 (1) MWN (Civil) 25** wherein I have held in para 17 that the proposed party have no right to implead himself in the above suit as a 4th defendant claiming the suit schedule of property under the adverse possession. If at all the proposed party have any claim over the suit schedule property, he should only approach the competent Civil Court and file a separate suit. Therefore, the learned counsel for the revision petitioner contented that the above said judgment is squarely

applicable to the facts and circumstances of the case on hand also.

9.The said contention of the revision petitioner was resisted by the learned counsel for the 1st respondent that the trial Court has rightly dismissed the impleading application and the finding of the trial Court does not call for any interference by this Court. The learned counsel for the 1st respondent argued that the present suit is one for declaration and permanent injunction against the respondents 2 to 4 herein. Further, the 1st respondent herein is in possession and enjoyment of the suit property from 1990 by constructing a tiled house. If at all the temple is having any right over the suit property the temple ought to have taken steps against the 1st respondent herein.

10.This Court has carefully considered the rival submission and perused the order of the trial Court. When the revision petitioner/temple claims that the suit property belongs to the temple and patta stood in the name of the temple, to prove title, the revision petitioner ought to have produced the revenue records. But the revision petitioner having stated so that patta No.4 stood in the name of the temple, has not produced the same. As rightly held by the trial

Court, if at all the temple is the owner of the suit property, it could file a separate suit against the 1st respondent herein and no one would prevent the temple from filing a suit. There is no cause of action for the temple to file the impleading application in the above suit. The trial Court may at any stage of the suit, suo-motu order to add any party if their presence is necessary to enable the Court to adjudicate the issue effectively.

11. In my considered opinion, the presence of the revision petitioner is not necessary for the determination of the real disputes between the parties. The trial Court has rightly dismissed the impleading petition filed by the temple and there is no illegality or infirmity in the order of the trial Court. This Court do not find any merit in this Civil Revision Petition and the same is liable to be dismissed and accordingly dismissed.

12. In the result:

(a) this Civil Revision Petition is dismissed and the order and decree made in I.A.No.502 of 2011 in O.S.No.87 of 2010, dated 18.01.2012, on the file of the Principal Sub-Judge, Virudhachalam, is confirmed;

(b) the trial Court is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this order. Both the parties are hereby directed to give their fullest co-operation for early disposal of the suit, within the time limit fixed by this Court. No cost.

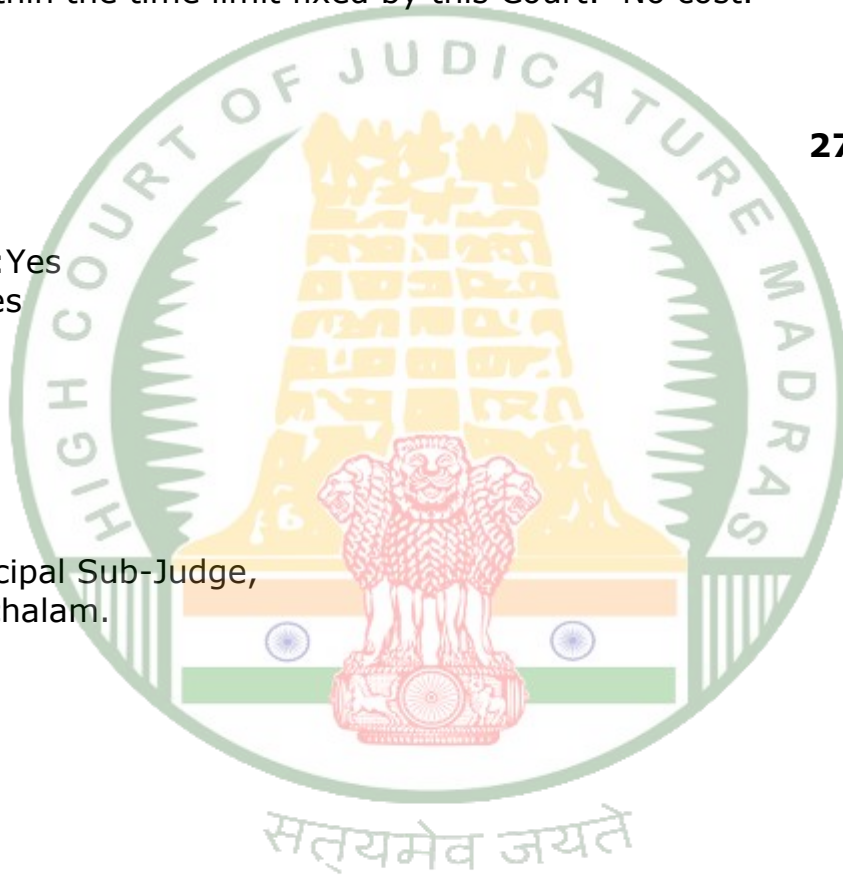
27.07.2017

Internet:Yes
Index:Yes

vs

To

The Principal Sub-Judge,
Virudhachalam.



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M.V.MURALIDARAN, J.

VS



Pre-Delivery order made in
CRP(PD)No.2864 of 2012

27.07.2017

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