



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD) No. 2513 of 2015

WEB COPY

Sivasubramanian (died)

Balu

...Petitioner

Vs.

M.S.Adhimoola Mudaliar Estate,
Sundaraperumal Kovil,
rep. by its Trustess

1.Govindaraja Mudaliar

2.Mahalinga Mudaliar

3.Dekshinamoorthy Mudaliar

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed by the learned Principal Subordinate Judge, Kumbakonam, in I.A.No.73 of 2015 in O.S.No.184 of 2002 on 10.06.2015.

For Petitioner

:Mr. T.R. Subramanian

For Respondents

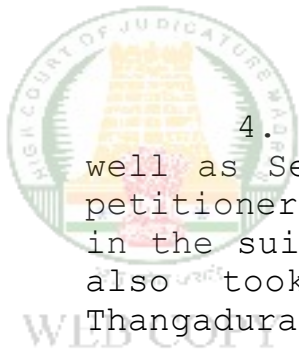
: Mr.T. Antony Arulraj

O R D E R

This Civil Revision Petition is filed to set aside the fair and decreetal order passed by the learned Principal Subordinate Judge, Kumbakonam, in I.A.No.73 of 2015 in O.S.No.184 of 2002 on 10.06.2015.

2. The grievance of the petitioner is that the application filed by him to substitute one Thangadurai was dismissed, by the learned Judge without properly considering the facts of the case as well as law. The petitioner and first plaintiff filed suit against the respondents Trust obtaining permission under Section 92 of CPC. Pending suit, the plaintiff died. The petitioner filed I.A.No.73 of 2015 to implead the legal heirs of the first plaintiff. The said application was dismissed. The trial of the suit commenced. Evidence on behalf of both sides were completed. At the time of arguments, the petitioner filed present I.A.No.73 of 2015 to substitute one Thangaraj as plaintiff.

3. The respondent opposed the same on the ground that only proceedings, the petitioner filed present application.



4. The learned Judge considering the facts of the case as well as Section 92 of CPC dismissed the application holding that petitioner can proceed with suit and all the persons interested in the suit need not be impleaded as plaintiff. The learned Judge also took note of the fact that the proposed plaintiff Thangadurai, did not file any affidavit.

5. Against the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

6. I have heard the learned counsels appearing on either side and perused the materials available on record.

7. The petitioner and first plaintiff obtained permission to file suit against the respondents Trust. The first plaintiff died and I.A.No.73 of 2015 for impleading legal heirs of the plaintiff also dismissed. Now, at the stage of the arguments the petitioner filed present application for substituting one Thangadurai as legal heir of deceased first plaintiff.

8. The learned Judge considering the provision of Section 92 of CPC dismissed the application, by giving cogent and valid reasons. The learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

9. In the result, the Civil Revision Petition is dismissed. No costs.

10. The learned counsel appearing for the respondents submitted that already evidence was recorded and suit is posted for arguments and hence, he seeks early disposal of the suit.

11. Considering the fact that the suit is of the year 2002, the learned Judge is directed to dispose of the suit as expeditiously as possible in any event not later than 30th April 2017.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

The learned Principal Subordinate Judge, Kumbakonam.

+1cc to M/s.T.ANTONY ARUL RAJ Advocate in SR. No.7314

+1cc to M/s.T.R.SUBRAMANIAN Advocate in SR. No.7132

TRP

JS/PN/10.03.2017/2P-4C

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