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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2018

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.R.P.(PD).No.453 of 2005
and C.M.P.4866 of 2005

1.Rukmini Rajappan
2.Ramadevi
3.Mohanakumar
4.Jayakumar
5.Bharatkumar

..Petitioners

Vs

1.V.G.Santhosam
2.V.G.Selvaraj
3.V.G.P.Rajadoss
4.V.G.P.Babu
5.V.G.P.Prasad Doss
6.V.G.P.Ravidoss
7.Umadoss
8.VGP Beach Housing,
VGP House,
6,Dharmaraja Koil Street,
Saidapet
Chennai 600 015.

..Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 07.02.2005, made in I.A.No.898 of 2004 in O.S.No.556 of 2004, on the file of the District Munsiff Court at Chenglepet.

For Petitioner : Mr.Srinath Srideven

For Respondents : No appearance
1 to 6 and 8

For Respondent-7 : CRP - Dismissed vide Court order
dated 19.07.2018.

O R D E R

The above Civil Revision Petition has been filed challenging the order dated 07.02.2005 in I.A.No.898 of 2004 in O.S.No.556 of 2004 on the file of the District Munsif,



Chenglepet,, in and by which, the learned Judge has dismissed the application filed by the revision petitioners for impleading the eighth respondent herein as the eighth defendant in the suit.

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2. The facts necessary to dispose of the above Civil Revision Petition are that the revision petitioners had filed a suit for declaration of their title to the suit property and for an injunction restraining the respondents 1 to 6, their men and agents from interfering with the peaceful possession and enjoyment of the suit property by the revision petitioners and the seventh respondent herein to the suit property or in the alternative for the relief of recovery of possession.

3. The suit was filed in the year 1994. The written statement filed by the third respondent on 29.11.2001 would indicate that the respondents had taken a plea that the proposed 8th respondent is the owner of part of the suit property and that since the Firm has not been impleaded and the partners alone have been impleaded, the suit deserves to be dismissed as in limine.

4. Despite such an express statement in the written statement, the revision petitioners did not take any steps to implead the Firm. On the contrary, they had proceeded with the trial and at one juncture, had also taken out an application to re-open the evidence, which was dismissed. Challenging the same, they had moved this Court in C.R.P.1513 of 2003 and this Court, by order dated 08.07.2004, had dismissed the revision petition and directed that the suit be disposed of within a period of three months from the said date. After the dismissal of the revision, this application which is impugned in the present revision has been moved by the revision petitioners and the reason given by them is that by inadvertence, they had omitted to show the Firm as a defendant and from the evidence let in by the respondents and documents marked on their side, it has come to the light that they have purchased the smaller extent of the suit property. It is also seen that when this application was filed, the Registry of the Court below had returned the papers with the following endorsement:

"It is to be explained how the cause of action for the present I.A..../04 arise at this stage.

In the year 2001 itself in the earlier petition IA 1461/2001 has been prayed to add the words partners of M/s.V.G.B. Beach House in short and long cause title of the defendants. Which the amendment petition was dismissed by this Court, against that order C.R.P.1042/2002 has also been preferred that the Hon'ble High court allowed only to amend the plaint in respect of prayer i.e. declaration of



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title and recovery of possession of the property as an alternative relief and further observe that since originally this court (Hon'ble High court) issued a direction for dispose the suit within a period of 3 months from the date of receipt of the order.

Further it has also been observed by the Hon'ble High court in CRP 1514 of 2003 in the order dated 08.07.2004. It is crystal seen that the plaintiff/revision petitioner were at fault throughout the proceeding from the year 1994. Having filed a suit for bar injunction and having failed in their attempts to get an ex parte order of injunction they came to the High court and direction was given for the disposal of suit and by flouting the direction an amendment petition was filed and when the amendment petition was allowed by Hon'ble High court in a revision once again a direction was given for the Plaintiff who has not complied with the original condition at least when 2nd direction was given should have obeyed the same, instead of co-operating with the court to see the result of suit without any just and reasonable cause when the case posted for judgment. The revision petitioner only to drag on the case and avoid seeing the result of the suit. It seems the petitioners have adopted this kind of dilatory tactics. Which should be curbed. Hence this revision deserves rejection and the same is dismissed with exemplary cost of Rs.2000/-.

Therefore the light of Hon'ble High court order it is to be explained how this present petition is maintainable at this belated stage."

5. The petitioners re-presented the petition stating that they had noticed that the proposed respondent has to be impleaded only during the trial and since the 8th respondent is a proper and necessary party, they have to be impleaded.

6. The third respondent filed a counter, which was adopted by the respondents 1, 2 and 4 to 6, in which, it has been stated that all along the revision petitioners were aware that the actual owner was the 8th respondent and they had deliberately not taken steps to implead them and the present petition is highly belated.

7. On the same lines of the counter, the learned District Munsif had dismissed the application and in addition, had stated that in C.R.P.No.1513 of 2003, this Court had directed the suit be disposed of within a period of three months and thereafter, on two occasions, the time had to be extended at the request of the revision petitioners and on the last occasion, the revision



petitioners were also imposed with costs and therefore, the revision petitioners are adopting dilatory tactics. Challenging this order, the revision petitioners are before this Court.

8. Heard Mr.Srinath Sridevan, the learned counsel appearing for the petitioners/plaintiffs and perused the materials available on record.

9. The learned counsel for the petitioners would vehemently contend that an application under Order 1 Rule 10 C.P.C can be filed at any stage and in support of his argument, the learned counsel placed reliance on the judgment of this Court reported in (1970) 1 MLJ 243 = MANU/TN/0404/1969 [Swayamprakasam alias Chidambaranathan -vs- R.Vijayarangam], wherein, in paragraph 4, it has been stated as follows:

"4. Order 1, Rule 10(2) Civil Procedure Code, gives jurisdiction to the Court to order that the name of any person who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added at any stage of the proceedings. The proceedings in a suit for partition cannot come to an end till the final decree is passed and hence an order directing a party to be added under Order 1, Rule 10, Civil Procedure Code, may be made in a suit for partition before it is actually terminated by the passing of the final decree."

10. However, the instant case is a suit for declaration with an alternative relief of recovery of possession. The suit has been filed as early as in the year 1994 and though the written statement had been filed in the year 2001, the revision petitioners have taken steps to implead the proposed party only in the year 2004. It is also seen from the returns of the Registry of the Court below that an earlier application for amendment has been moved by the revision petitioners in the year 2001 where they had sought to add the words "partners of VGP Beach Housing" in the short and long cause title. The said amendment application was dismissed, against which, the revision petitioners had preferred C.R.P.No.1042 of 2002. However, this Court had only permitted the revision petitioners to amend the prayer with reference to the plea and not with reference to the addition of the words "partners of VGP Beach Housing".

11. The revision petitioners had moved one another application which was taken out by way of a revision before this Court in C.R.P.No.1513 of 2003 and directions have been issued



to the Court to dispose of the suit within a period of three months and that direction had also been not complied with.

12. This petition has been filed to implead "VGP Beach Housing" as 8th defendant, which is in fact, trying to circumvent the order in C.R.P.No.1513 of 2003. The revision petitioners cannot be permitted to adopt such dilatory tactics. It is evident that their only attempt is to protract the proceedings and the learned District Munsif, Chengalpet has rightly dismissed the application.

13. I find no infirmity in the impugned order passed by the learned District Munsif, Chengalpet. Accordingly, the Civil Revision Petition is dismissed. The learned Judge is directed to conclude the suit within a period of two months from the date of receipt of a

copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

srn

To

The District Munsif Court, Chenglepet.

+lcc to Mr.Srinath Sridevan, Advocate SR.No.66242

C.R.P. (PD) .No.453 of 2005 and
C.M.P.4866 of 2005

VD(CO)

GMV(15/11/2018)