



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2018

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THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

C.R.P (MD) No. 753 of 2017 (PD)
and
C.M.P (MD) No. 10187 of 2017

Aramanai Raman Chettiar,
Annadhana Chatram,
Kumbakonam by Managing Trustee,
A.R. Jayaraman,
S/o. A.R. Ramasamy,
No. 75, Sourashtra Big Street,
Kumbakonam.

... Petitioner/1st Respondent/
Plaintiff
Vs

1. A.R. Mohan Ram
2. A.R. Raghu Raman
3. Gowtham Chand

... 1 & 2 Respondents/Petitioners/
Proposed Parties
... 3rd Respondent/2nd Respondent/
Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the decreetal order and Fair order passed in I.A.No.5 of 2016 in O.S.No.37 of 2015 dated 13.02.2017 on the file of the Additional District Court (Fast Track Court), Kumbakonam and to set aside the order of impleadment of the petitioners as parties to the suit as defendants.

For Petitioner	: Mr.M.V.Santharaman
For R1 & R2	: Mr.M.S.Balasubramania Iyer
For R3	: No appearance

ORDER

The order, dated 13.02.2017 passed in I.A.No.5 of 2016 in O.S.No.37 of 2015 by the Additional District Judge (Fast Track Court), Kumbakonam is under challenge in the present Civil Revision Petition.

2.The suit in O.S.No.37 of 2015 was filed by the Revision Petitioner's Trust. The suit is for possession simpliciter and the third respondent herein is the defendant in the suit. During pendency of the suit, the respondents 1 & 2 filed an application



under Order 1 Rule 10(2) of C.P.C., for impleadment. Impleading petition filed by the respondents 1 & 2 was allowed by the Trial Court. Against which, the petitioner/plaintiff has preferred the present Revision petition.

3. The learned counsel appearing on behalf of the revision petitioner contends that pursuant to the Scheme Decree suit in O.S.No.199 of 2002, dated 28.01.2013 the plaintiff has filed the present suit in O.S.No.37 of 2015 for possession of certain properties belonging to the Trust. The learned counsel for the revision petitioner further states that the respondents 1 & 2 are also Trustees appointed pursuant to the scheme decree order. However, the respondents 1 & 2 are acting contrary to the objects of the Trust and further not co-operating for the peaceful functioning of the Trust as per its terms and conditions. In view of the fact that the respondents 1 & 2 are acting against the interest of the public Trust, and it is necessitated to the plaintiff to raise all objections in respect of their impleadment in the present suit. At the out set, the learned counsel for the petitioner vehemently contended that the respondents 1 & 2 have suppressed many material facts in their pleadings and set out certain false allegations against the revision petitioner/plaintiff. Under these circumstances, impleading the respondents 1 & 2 as defendants in the suit will cause great prejudice to the revision petitioner/plaintiff.

4. The learned counsel appearing on behalf of the respondents opposed the contention by stating that the respondents 1 & 2 are none other than the brothers of the Managing Trustee. This apart, the respondents 1 & 2 are also the trustees appointed in the plaintiff Trust. Thus, they are having interest over the public Trust and they have to be impleaded as necessary parties in order to put forth certain material facts before the trial Court. At the out set, the respondents state that the respondents 1 & 2 are necessary parties for the effective adjudication of the suit, which was filed by the revision petitioner/plaintiff for possession.

5. Considering the arguments as advanced by the respective learned counsel appearing on behalf of the revision petitioner and the respondents, this Court has to now consider whether the respondents 1 & 2 are the necessary parties for the effective adjudication of the suits filed by the revision petitioner for possession simpliciter.

6. Order 1 Rule 10(2) of the CPC states that the Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, 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.



7. The spirit of the Civil Procedure Code is unambiguous that all the persons, who are all connected with the issues are to be impleaded or necessary to be impleaded if the Court is of an opinion those parties are necessary for effective adjudication of the suit.

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8. In the present revision petition, though the suit in O.S.No.37 of 2015 was filed by the revision petitioner's Trust, the respondents 1 & 2 are also Trustees. The contention of the learned counsel for the petitioner that the respondents 1 & 2 are acting against the interest of the Trust has to be necessarily be pleaded and to be adjudicated only during trial. All these allegations and counter allegations made by the parties in this revision petition may be good ground for the effective adjudication of the suits. However, at this stage, this Court has to consider whether the impleading petition allowed by the trial court is in accordance with the Code of procedure or not. In view of the fact that the issues in this revision petition is narrowed down, this Court is of an opinion that the allegations set out by the revision Petitioner need not be considered at this stage by this Court in this revision.

9. It is left open to the revision petitioner to raise all these issues in respect of non co-operation or suppression of material facts or other pleading at the appropriate stage before the trial Court. Equally, it is left open to the respondents to submit their pleadings, allegations and counter allegations before the trial Court at the appropriate stage.

10. This Court is of an opinion that all suits filed before the competent Civil Court are to be adjudicated in complete and during the course of the adjudication, if the Court is of an opinion that certain persons are to be impleaded for the purpose of an effective adjudication, the same cannot be prevented at all and the suit has to be adjudicated on merits and based on the evidences and documents produced by the respective parties. The suit cannot be dismissed merely on technical grounds. Thus, all the necessary parties, who are all having interest over the Trust have to be impleaded as parties. In respect of the respondents 1 & 2 they are none other than the Trustees. The apprehension raised by the learned counsel for the petitioner that the respondents 1 & 2 are suppressing the fact, are to be dealt with properly by the trial Court at the time of adjudication. Thus, this Court is of an opinion that the trial Court has rightly made a finding that the respondents 1 & 2 are the necessary parties for the effective adjudication of the suit. Thus, there is no infirmity as such in respect of the orders passed by the Additional District Judge, (Fast Track Court), Kumbakonam in I.A.No.5 of 2016, in O.S.No.37 of 2015 dated 13.02.2017 and the same stands confirmed.



11. Accordingly, the Civil Revision Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (T&P)

Sub-Assistant Registrar

To

The Additional District Judge,
(Fast Track Court)
Kumbakonam

+One cc to Mr.T.R.Subramanian, Advocate, SR.No.55112

am

RL/3C/2P/CVC/SAR1/2/4/2018

C.R.P (MD) No.753 of 2017 (PD)

13.03.2018