



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.R.P. (MD) No.1324 of 2016

WEB COPY

1.J.Rameeza Bhanu

2.J.Nairudeen Ahammed Sultan .. Petitioners/
Proposed appellants 4 & 5/
3rd Parties

vs.

1.H.H.The Prince of Arcot Endowments,
rep. by its Agent,
U.Molhammed Khalilullah

2.M/s.P.H.Mohammed Nasiirudeen & Co.,
A Partnership Firm,
rep. by its Partner N.Jamaludeen

3.N.Jamaludeen

4.Ayeesha Begum .. Respondents/Appellants/
Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against fair and decreetal order dated 13.06.2016 made in I.A.SR.No.837 of 2016 in A.S.No.222 of 2006 on the file of the II-Additional Subordinate Judge, Tiruchirapalli, and direct the Ist Appellate Court number of and dispose the matter on merit in accordance with law.

For Petitioner : Mr.H.Thayumanaswamy
For Respondent No.1 : Mr.K.S.Shankar Murali
For Respondents 2,3 and 4 : No appearance

ORDER

O.S.No.1384 of 1998 was instituted by the first respondent herein for directing the respondents 1 to 4 herein to vacate and deliver possession of the site of the suit property after removal of the entire superstructure put up by them and for awarding damages.

2. The second respondent herein is a partnership firm in which respondents 3 and 4 are partners. The said suit for ejectment was decreed on 30.08.2006. Questioning the ejectment decree, respondents 2 to 4 herein filed A.S.No.222 of 2006 before the learned II-Additional Sub Judge, Trichy. In the said appeal, the revision petitioners herein filed I.A.SR.837 of 2016 to get themselves impleaded. The First Appellate Court, by order, dated



13.06.2016 rejected the same even without numbering the said IA. Questioning the said order, this revision petition has been filed.

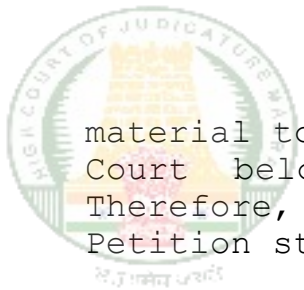
3. The learned counsel for the petitioner reiterated the contentions set out in the memorandum of grounds.

4. As rightly contended by the learned counsel for the plaintiff/first respondent herein, the suit for ejectment was instituted as early as in the year 1998. The respondents 3 and 4 herein, who are partners of the second respondent firm are none other than the parents of the revision petitioners herein. The apprehension expressed by the revision petitioners herein is that the respondents 3 and 4 are non-actively prosecuting the appeal and that there is even a chance of their colluding with the plaintiff. With these averments in the affidavit, the revision petitioners herein sought to get themselves impleaded in the appeal. The learned counsel for the plaintiff filed a chronology of events. A mere look at the same would show that the respondents 3 and 4 herein aggressively contested the suit filed by the first respondent herein.

5. As already pointed out, the suit was filed way back in the year 1998. Two decades have elapsed. This single circumstance is sufficient to show that the respondents 3 and 4 herein are at loggerheads with the plaintiffs and are bent on resisting the steps taken by the first respondent. The revision petitioners herein admittedly were minors when the suit was instituted. The learned counsel for the plaintiff placed reliance on the decision reported in 2011 (1) MW1 CVL 419 in which it was held as follows:

"19. when a Partnership Firm is sued by another person, it is not necessary to state the names of the Partners of the Defendant-Firm in the Plaint. Such a concession is made available to a person suing a Firm, on the assumption that the customers of business concern cannot have access to the document showing the composition of the Firm. What is mandatory is that when a Suit is filed against a Firm, summons issued to the Firm should be served upon any one or more of the Partners or upon the person having at the time of service, the control and management of the partnership business at a place wherein partnership business is carried on within India".

6. Even according to the revision petitioners, the first petitioner attained majority in the year 2003, while the second petitioner attained majority in the year 2014. There is absolutely no explanation as to why the first revision petitioner was quiet all these years. More than anything else, there is simply nothing on record to show that the parents are acting adverse to the interest of the revision petitioners herein. Mere averment in the affidavit is not sufficient. Since the petitioners have not placed any



material to show that there is any basis for their apprehension, the Court below rightly rejected the application filed by them. Therefore, I see no ground to interfere. Hence, this Civil Revision Petition stands dismissed. No Costs.

WEB COPY

/True Copy/

Sd/-
Assistant Registrar (AD-II)

Sub Assistant Registrar (CS-III)

To
The II-Additional Subordinate Judge,
Tiruchirapalli.

- 1 CC TO Mr.K.S.Shankar Murali, ADVOCATE IN SR No.82354.
-
- Pjl
- DS SV SAR3 26 10 2018 3P 3C

C.R.P. (MD) No.1324 of 2016
05.09.2018