



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.2445 of 2016

and

C.M.P. (MD) No.11556 of 2016

Sahayam ... Petitioner/Petitioner/1st Respondent

Vs.

1.Melkiyo ..1st Respondent/Petitioner/3rd Party/
Proposed 4th Defendant

2.Sampath .. 2nd Respondent/2nd Respondent/1st Defendant

3.Indus Towers Ltd.,
Through its Estate Manger,
running business at No.1045,
Srivari Srimat Avinasi Road,
3rd and 4th Floor,
Coimbatore,
Coimbatore District. ..3rd Respondent/3rd Respondent/
2nd Defendant

4.Bharathi Infratel Ventures Ltd.,
running business at Part Centre,
9th Floor Sector,
30 Gurgon Land Marg N.R.Star Mal,
Gurgon,
Through its Managing Director. ..4th Respondent/
4th Respondent/3rd Defendant

PRAYER : Petition filed under Article 227 of Constitution of India, to set aside fair and decreetal order dated 20.09.2016 passed in I.A.No.173 of 2016 in O.S.No.86 of 2012 on the file of the Subordinate Court, Ambasamudram and allow the present Civil Revision Petition.

For petitioners	:	Mr.R.J.Karthick
For R1	:	Mr.J.Barathan
		for T.R.Jeyapalam
For R2	:	Mr.T.Lajapathi Roy
For R3	:	Mr.M.Ponniah

**ORDER**

The plaintiff in O.S.No.86 of 2012 on the file of the Sub Court, Ambasamudram, is the revision petitioner herein. It is a suit for declaration and recovery of possession. In the said suit, the first respondent herein filed I.A.No.173 of 2016, to get himself impleaded as a fourth defendant. The said I.A., was allowed by the Court below by order dated 20.09.2016. Questioning the same, this Civil Revision Petition has been filed.

2.Heard the learned counsel on either side.

3.The counsel for the revision petitioner pointed out that the revision petitioner obtained an ex parte decree against the first respondent herein in O.S.No.131 of 2011 on the file of the District Munsif Court, Cheranmahadevi and that therefore a person who suffered a decree at the hands of the revision petitioner, should not be allowed to poke his nose in the present suit proceedings.

4.This contention is resisted by the learned counsel appearing for the first respondent. It is clarified that the outcome of O.S.No.86 of 2012 will not have any bearing on the rights of the first respondent herein.

5.The revision petitioner being the *dominus litus*, is entitled to choose the person against whom he seeks relief. Since, it has been clarified that any decree that may be passed in O.S.No.86 of 2012 on the file of the Sub Court, Ambasamudram, will not bind the first respondent herein, this Court is of the view that the order impugned in this Civil Revision Petition deserves to be set aside.

6.With this clarification, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (ADII)

// True Copy //

Sub Assistant Registrar(CS-)

To

1. Subordinate Judge,
<https://hcservices.ecourts.gov.in/hcservices/>
Ambasamudram.



2. Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1cc to Mr. R. J. Karthick, Advocate, Sr.No.84018.
+1cc to Mr. T. R. Jeyapalan, Advocate, Sr.No.84129.

ORDER MADE IN
C.R.P. (PD) (MD) .No.2445 of 2016
and
C.M.P. (MD) No.11556 of 2016
12.09.2018

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RAM-KK/RSK/SAR 3/06.12.2018/3P/6C