



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.V. MURALIDARAN

C.R.P. (NPD) (MD) Nos.944 and 945 of 2016

and

CMP (MD) .No.4758 of 2016 in CRP (MD) .No.944 of 2016

G. Gnanadhas

... Petitioner / 3rd defendant
in both CRPs.

-vs-

1. Fr. S. Samuel Jebakani

2. The Society of the Church of God
(full Gospel) in India,
rep. by its Chairman,
No.1, Dewan Rama Road,
Purasawalkam, Chennai -600 084

3. State Council,
The Society of the Church of God
(full Gospel) in India,
No.1, Dewan Rama Road,
Purasawalkam, Chennai -600 084.

4. State Overseer,
The Society of the Church of God
(full Gospel) in India,
No.1, Dewan Rama Road,
Purasawalkam, Chennai -600 084. ... Respondents in both CRPs.

Prayer in CRP (MD) .No. 944 of 2016: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 15.12.2015 made in I.A.No.339 of 2013 in O.S.No.54 of 2012 on the file of the Sub Court, Tuticorin.

Prayer in CRP (MD) NO. 945 of 2016: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 15.12.2015 made in I.A.No.340 of 2013 in I.A.No. 245 of 2012 in O.S.No.54 of 2012 on the file of the Sub Court, Tuticorin.

For Petitioner : Mr.AR.L. Sundaresan, Senior Counsel
for Mr.S.Siva Thilakar
in both CRPs.

For R1 : Mr.M.P. Senthil in both CRPs

**ORDER**

CRP(MD).No. 944 of 2016 is filed against the order dated, 15.12.2015 made in I.A.No.339 of 2013 in O.S.No.54 of 2012, on the file of the Sub Court, Tuticorin.

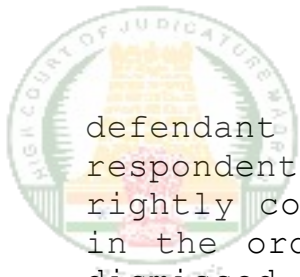
WEB COPY

CRP(MD)No. 945 of 2016 is filed against the order dated, 15.12.2015 made in I.A.No.340 of 2013 in I.A.No. 245 of 2012 in O.S.No.54 of 2012 on the file of the Sub Court, Tuticorin.

2. The first respondent / plaintiff has filed a suit in O.S.No.54 of 2012, on the file of the Sub-Court, Tuticorin for declaration and permanent injunction and in the said suit, he has filed an application in I.A.No.340 of 2013 in I.A.No.245 of 2012 in O.S.No.54 of 2012 and he also filed another application in I.A.No.339 of 2013 in O.S.No.54 of 2012, on the file of the Sub-Court, Tuticorin, for impleading the fourth respondent herein as a party to the proceedings and the said applications were allowed on 15.12.2015. Aggrieved over the same, the revision petitioner / 3rd defendant has filed the present Civil Revision Petitions.

3. The learned counsel appearing for the revision petitioner would submit that the Court below failed to advert to the scope and ambit of Order 1 Rule 10(2) CPC to implead the proposed 4th respondent especially, when the revision petitioner has specifically stated in his written statement to implead the fourth respondent herein in the suit, even before the commencement of trial. But, the first respondent / plaintiff in order to drag on the proceedings, has filed the applications after the defendants side evidence was about to be conclude and hence, the belated applications filed to implead the proposed party ought not to have been entertained and the same is liable to be dismissed. He would further submit that if the impleading petitions had been filed before the commencement of the trial, the parties would have the opportunities to file their additional written statements and the trial would have been over. However, the petitioner was having ample time to implead the proposed party from the date of filing of the written statement and there is no proper reason for filing the application belatedly and hence, the order passed in the I.A.Nos. 339 and 340 of 2013 are liable to be set aside.

4. Learned counsel appearing for the first respondent / plaintiff has contended that when the matter was posted for cross examination of DW.1, the DW.1 has given evidence only in respect of the third defendant and he has not given any evidence in respect of State Overseer / proposed respondent and further, the third defendant has filed statement only in the individual capacity. He further submitted that since the third defendant has been served by the first respondent / plaintiff from service in the capacity of State Overseer, the fourth respondent / fourth



defendant is a necessary party to the suit and hence, the first respondent / plaintiff has filed applications and same has been rightly considered by the Court below. Hence, there is no error in the order of Court below and the petitions are liable to be dismissed *in limine*.

WEB COPY

5. I have heard the learned counsel appearing on either side. This Court also perused the material documents available on record.

6. Since the revision petitioner / third defendant has filed his statement in the individual capacity, the Court below has rightly considered that the fourth respondent / State Overseer, the Society of the Church of God (full Gospel) in India, is a necessary party to the suit and allowed the Applications in I.A.Nos. 339 and 340 of 2013. In such circumstances, I am of the view that the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality in the said order, warranting interference by this Court.

7. In the result, these Civil Revision Petitions are dismissed, by confirming the order passed in I.A.No.340 of 2013 in I.A.No. 245 of 2012 in O.S.No.54 of 2012 and I.A.No.339 of 2013 in O.S.No. 54 of 2012, on the file of the Sub Court, Tuticorin, dated, 15.12.2015. Further, the Trial Court is directed to dispose of the suit in O.S.No.54 of 2012, within a period of one month from the date of receipt of a copy of this order.

8. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar(CS-I)

To:

The Sub Court, Tuticorin.

+1cc to Mr.S.Siva Thilakar, Advocate Sr.No.74237

TRP

VB/RP/SAR1/03.09.2018/3P/3C