



EFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2018

CORAM

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THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P.(PD) (MD) No.390 of 2011
and M.P.(MD)No.1 of 2011

Ulaganathan

... Petitioner/Petitioner/3rd Party

Vs.

- 1.A.G.L.Educational and Charitable Trust,
Rep.by its Managing Trustee,
A.G.L.Irudhayaraj ..1st Respondent/1st Respondent/Plaintiff
- 2.City Corporation of Trichirappally
Rep. by its Commissioner
- 3.State of Tamilnadu,
Rep. by the District Collector,
Trichirappalli ... Respondents 2, 3/Respondents 2, 3/
Defendants 2, 3

PRAYER:- Civil Revision Petition is filed, under Section 227 of Constitution of India against the order dated 18.10.2010 passed in I.A.No.160 of 2008 in O.S.No.945 of 2007 on the file of the Principal District Munsif Court, Tiruchirappally.

For Petitioner : Mr.C.Dhanaseelan
For R1 : Mr.R.Udayakumar

O R D E R

This Civil Revision Petition has been preferred against the order dated 18.10.2010 passed in I.A.No.160 of 2008 in O.S.No.945 of 2007.

2. The learned counsel for the petitioner would aver among other things that the suit in O.S.No.945 of 2007 was filed for permanent injunction and for other reliefs. The petitioner herein is the third party. The Interlocutory Application in I.A.No.160 of 2008 was filed by the petitioner/third party stating that the plaintiff in the suit in O.S.No. 945 of 2007 is claiming right over the property by virtue of a sale deed dated 27.04.1995 alleged to have been executed by one Sivanandhan Chettiar and three others.



3. As per the provisions of partition deed, the entire 'D' schedule properties were allotted for charity purpose and it is being administered by one Ulaganathan, who is the grand father of the petitioner and after his death, it was transferred in the name of the petitioner's father Sivagurunathan Chettiar. While so, in the year 1961-1962, out of 2.85 acres of land, the Tamilnadu Government has acquired 2.10244 sq. fts and the remaining 61 cents was in possession of the petitioner's father and the death of the petitioner's father, the petitioner is in possession and enjoyment of the property and the petitioner issued notice dated 08.02.2008 and the first respondent/plaintiff evaded to receive notice and now, the petitioner wants himself to be impleaded in the suit.

4. It is the contention of the learned counsel for the first respondent/plaintiff that the plaintiff does not want any relief as against the petitioner/proposed party and hence, he cannot be compelled to fight against a person to whom he does not want any relief and the trial court has rightly dismissed said Interlocutory Application and he prays for dismissal of the present civil revision petition.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent and perused the materials available on record.

6. After perusing the averments and upon hearing both sides, the trial court stated that the suit is filed for permanent injunction; if the petitioner is impleaded as one of the defendants, the basic nature of the suit would be changed; the first respondent/plaintiff himself is not claiming any right as against the petitioner/third party, and that the petitioner is not necessary party. When the main suit is filed only for permanent injunction against the defendants, the possession of the suit property can be claimed only by way of filing a separate suit.

7. In my considered view, there is no error in the order of the trial court, which does not warrant interference by this Court and the order of the trial court is confirmed.

8. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar



To

The Principal District Munsif Court,
Tiruchirappalli.

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COPY TO:

The Section Officer,
V.R.Section, Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

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and M.P. (MD) No.1 of 2011
13.02.2018

cm

JM/JC/SAR 1/23.03.2018/3P/4C