

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

CRP.(PD).No.2214 of 2016
and
C.M.P.No.11475 of 2016

A.B.Sundharsanam

..Petitioner

Vs.

1.S.Madheswaran

2.A.S.Ramesh

.. Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 22.04.2016 in I.A.No.32 of 2014 in O.S.No.179 of 2013 on the file of the I Additional Sub Court, Salem.

For Petitioner : Mr. D.Shivakumaran

For Respondent-1 : Mr. T.Murugamanikkam

For Respondent-2 : No Appearance

ORDER

The order under challenge in the present revision is for rejecting the petitioner's application dated 22.04.2016 in I.A.No.32 of 2014 by the learned I Additional Subordinate Judge, Salem, seeking to implead the petitioner himself as a party defendant in the suit in O.S.No.179 of 2013.

2.Heard Mr.D.Shivakumaran, learned counsel for the petitioner and Mr.T.Murugamanikkam, learned counsel for the first respondent.

3.It is seen that the first respondent herein had executed two Sale Deeds in Document Nos.391 and 392 of 1999 in favour of the second respondent herein and the revision petitioner, respectively. In both the suits, the relief sought for is, for declaring these two Sale Deeds as null and void. Insofar as the suit in O.S.No.207 of 2013 is concerned, when the first respondent/plaintiff had filed an application to implead the second respondent herein, who is the defendant in O.S.No.179 of 2013 as a party defendant on the ground that the revision petitioner and the second respondent herein had colluded and obtained two separate Sale Deeds, the said

impleading petition came to be allowed. When the first respondent/plaintiff had chosen to file an application to implead the second respondent herein as party defendant, in which the revision petitioner was already a defendant, the same analog will also apply to the present revision petitioner, who had filed the impleading application, seeking to implead himself as a party defendant in O.S.No.179 of 2013. The first respondent herein cannot attempt to distinguish the cause of action in the implead petition differently in both the suits. What applies to the impleading petition filed in O.S.No.207 of 2013 will equally apply to the petition filed by the revision petitioner herein in O.S.No.179 of 2013 and as such, the trial Court may not be justified in rejecting the petitioner's application for impleadment. I am also unable to see the prejudice that could be caused to the first respondent herein, who had already taken steps to implead the second respondent herein in the suit filed against him. While that being so, the order rejecting the petitioner's application cannot be sustained.

4.In the result, the order dated 22.04.2016 passed by the learned I Additional Sub-ordinate Judge, Salem in I.A.No.32 of 2014 in O.S.179 of 2013 is hereby set aside. Consequently, the prayer

sought for in I.A.No.32 of 2014 in O.S.No.179 of 2013 is allowed and the revision petitioner is ordered to be impleaded as a party defendant in the suit. The trial Court is called upon to carry out the necessary amendments to the pleadings.

5.Accordingly, this Civil Revision Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

30.01.2019

Index : Yes / No
Internet : Yes / No
DP/vsa

To

The I Additional Sub Court,
Salem.

M.S.RAMESH, J.

DP/vsa

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