

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)Nos.1792 & 1793 of 2019

and

C.M.P.Nos.11752 & 11753 of 2019

Om Prakash Ganchi

... Petitioner in both petitions

Vs.

1.N.Subbu Deivnayaga Mudaliar Trust,
rep. by its Trustees

1.C.Balasubramani
2.P.Muthikumarasamy
3.S.Thirumurthy
4.K.A.Murugappan

Having office at
No.2, Venkatachala Mudali Street,
Park Town, Chennai-600003.

2.Suraj Narain Daga (HUF)

Rep. by its Kartha
Mr.Laxmi Narain Daga
No.153 Mint Street,
Sowcarpet, Chennai-79.

3.Prem Narain Praveen Kumar (HUF),

Rep. by its Kartha
Mr.Praveen Kumar Daga
No.154, Mint Street,
Sowcarpet, Chennai-79.

4.Arulmighu Agatheeswarar and
Prasanna Venkatesa Perumal Temple,
Rep. by its Executive Officer.

... Respondents in both petitions

PRAYER in both petitions: Civil Revision Petitions filed under Article 227 of Constitution of India praying to set aside the order dated 13.12.2018 made in I.A.No.18389 and 18390 of 2014 in O.S.No.2595 and 2596 of 2007 respectively on the file of XVI Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.B.Ullasavelan

COMMON ORDER

These petitions are filed by the petitioner seeking to set aside the order dated 13.12.2018 made in I.A.No.18389 and 18390 of 2014 in O.S.No.2595 and 2596 of 2007 respectively on the file of XVI Assistant Judge, City Civil Court, Chennai.

2. The petitioner is a sub-tenant and the first respondent / plaintiff is the owner of the property.

3. The petitioner is a sub tenant under second and third respondents. According to him, as per the agreement entered between first and second respondent, there is provision for subletting the property.

The first respondent, being the trustee for the trust endowed for the

purpose of doing charitable activities to the temple, will fall within the purview of H.R. & C.E. Act under Superintendence of H.R. & C.E. Board. According him, there is mis-management of Trust and any lease by trust cannot exceeded 3 to 5 years. Whereas the petitioner is continuing as a tenant from 1998. Further, the entire income from the suit schedule property was endowed to the temple which is governed by H.R. & C.E. Department and hence the Executive Officer of Temple has to be impleaded in the suit. Unless the executive officer of the temple is impleaded, the mismanagement and irregularity cannot be brought to light. Therefore, he seeks to implead the executive officer as the proposed fourth respondent.

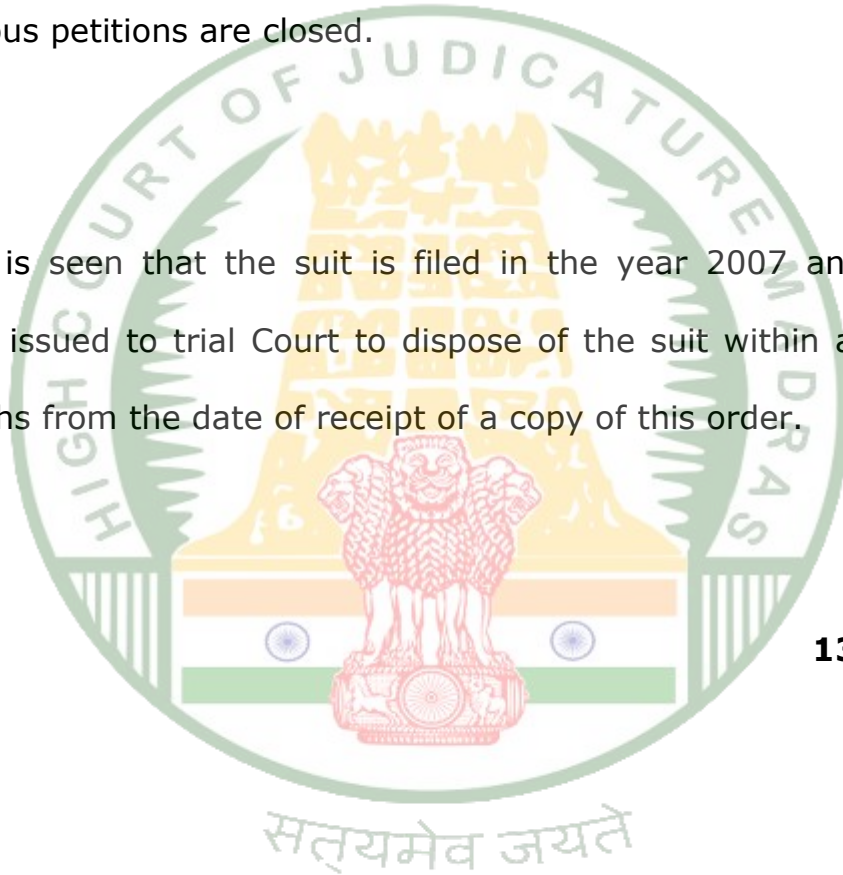
4. Admittedly, the petitioner is the tenant and he admits the ownership of the first respondent Trust. The other defendants are also the tenants. Once the tenancy is admitted he cannot question the affairs of the management of trust who is the landlord. A tenant is always a tenant and he can protect his possession in accordance with law and cannot question mismanagement of the trust or the admitted title of the landlord. Therefore, the petition to implead the Executive Officer of temple as fourth respondent in the suit is not essential to decide the issue in dispute and the decision can be taken without the presence of the proposed party. As such the Executive Officer is neither a necessary party nor a proper party to the suit and hence the trial Court has rightly dismissed

M. GOVINDARAJ, J.

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the same. The Civil Revision Petition does not merit consideration and accordingly it is dismissed. No costs. Consequently, connected civil miscellaneous petitions are closed.

5. It is seen that the suit is filed in the year 2007 and hence a direction is issued to trial Court to dispose of the suit within a period of three months from the date of receipt of a copy of this order.



13.06.2019

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