



BBEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Fifteenth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CMP(MD) No.3194 of 2018

IN

SA(MD) No.626 of 2005

B. SALEEM

... PETITIONER/PROPOSED PARTY

Vs

1 T. KHADER

... FIRST RESPONDENT/APPELLANT

2 N.MYTHEEN

... SECOND RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an order impleading the petitioner/proposed party in the second appeal in S.A.(MD).No.626 of 2005 and array him as second respondent and thus render justice.

Prayer in SA(MD). 626/ 2005 :

To set aside the Decree and Judgment dated 28.3.2005 rendered in AS.282/2003 on the file of the Principal Subordinate Judge, Madurai, reversing the Decree and the Judgment dated 18.8.2003 rendered in OS.235/2000 on the file of the District Munsif of Madurai Taluk at Madurai, by allowing this SA and to grant such other relief or reliefs that this Honourable Court may deem fit and proper in the circumstances of the case, and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.J.BARATHAN, Advocate for the petitioner and of MRS.P.JEESI JEEVA PRIYA, Advocate for R1 and MR.R.A.MOHANRAM, Advocate for R2, the court made the following order:-

This Civil Miscellaneous Petition is filed to implead the petitioner/proposed party in S.A(MD)No.626 of 2005 and arrayed him as second respondent.

2.Heard both sides and perused the materials available on
<https://hcservices.ecourts.gov.in/hcservices/record>.



3.The petitioner stated in his affidavit that as per the Trust Settlement Deed, dated 2.1.49, the founder of the Trust had earmarked some properties to be enjoyed by eldest male lineal descendants and some of the properties to be enjoyed by the eldest female lineal descendants and he is the eldest son of Bajurudeen, who is the eldest son of his father Syed Rowther and he is entitled to have the right of management of the suit properties and he learned that the second respondent is not properly defended the second appeal and hence, he is a proper and necessary party in this case and prays that the petition may be allowed.

4.On the other hand, on the side of the respondents, it is argued that the proposed party is not in anyway connected with the second appeal or the suit in O.S.No.235 of 2000 and the properties mentioned in the deed, dated 02.01.1949 were partitioned between the grandfather of the impleading petitioner namely Syed Rowther and father of the 1st respondent namely Dawood Rowther and they are in peaceful possession and enjoyment of the impleading petitioner and the 1st respondent. The impleading petitioner has no right, title or interest in the above matter and prays that the petition has to be dismissed.

5.It is not denied on the side of the respondents that the proper party is the son of Syed Rowther and only at the time of adjudication of the second appeal, it will be decided as to whether the eldest male member has any right to manage the properties of the Trust or not. At this stage, it cannot be decided. The reasons stated in the petition are acceptable. Hence, in the interest of justice this petition is allowed on terms.

6.In the result, this petition is allowed on payment of **Rs.5,000/- [Rupees Five thousand only]** to the **Chief Justice Relief Fund**, within a period of two weeks from the date of receipt of a copy of this order, failing which these petition shall stand dismissed automatically without further reference to this court.

sd/-
15/02/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE PRINCIPAL SUBORDINATE JUDGE,
MADURAI

2 THE DISTRICT MUNSIF



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COPY TO:- THE SECTION OFFICER, (THE CHIEF JUSTICE RELIEF FUND)
ACCOUNTS SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to MR.T.R. JEYAPALAM Advocate SR.No.3293
+1. C.C. to MR.P.JESSI JEEVA PRIYA Advocate SR.No.3257

ORDER
IN
CMP (MD) No.3194 of 2018
IN
SA (MD) No.626 of 2005
Date :15/02/2019

MSI/PN/SAR 4/08.03.2019/3P-6C