



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2019

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP(MD) No.648 of 2019

R.T.Seetharaman

... Petitioner/5th Defendant

vs.

1.S.Sivakumar

... 1st Respondent/Plaintiff

2.Sivaprakasam

3.P.Thangamani

4.P.Rajalakshmi

5.Arun Kumar

... Respondents 2 to 5/Defendants 1 to 4

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to direct the learned Additional Sub Judge Srivilliputtur, to dispose of the suit in O.S.No.175 of 2015 within a stipulated period as to be fixed by this Court.

For Petitioner : Mr.M.Thirunavukkarasu

ORDER

This Civil Revision Petition has been filed to direct the learned Additional Subordinate Judge, Srivilliputtur, to dispose of the suit in O.S.No.175 of 2015.

2.Before the trial Court, the petitioner herein is the fifth defendant, the first respondent herein is the plaintiff and the respondents 2 to 5 are the defendants 1 to 4. For the sake of convenience, the parties will be referred to as per their rank before the trial Court.

3.The petitioner herein/fifth defendant contended that the suit in O.S.No.175 of 2015 was filed for partition against the defendants. During the pendency of the said suit, the fifth defendant purchased the 4/5th share of defendants 1 to 4 over the suit. I item property and the same has also been registered. The fifth defendant filed I.A.No.638 of 2016 to implead him as fifth defendant in the suit and the same has been allowed by the Court



below. Further, the fifth defendant contended that it is for the plaintiff to take steps to amend the plaint by making amendment in the cause title and thereafter, the plaintiff has filed an another application to implead the Municipality, Srivilliputtur as the sixth defendant.

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4. Further, it is contended by the fifth defendant that the plaintiff has served a true copy of an application to him. Hence, the grievance of the fifth defendant is that the plaintiff is making endeavour to protract the suit proceedings and the trial Court is also liberally giving adjournments without proceeding the case. Hence, the fifth defendant is aggrieved only against the order of the trial Court in adjourning the case since the suit is filed in the year 2015.

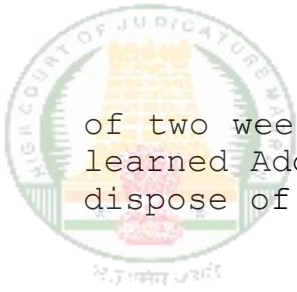
5. Heard the learned counsel for the fifth defendant/the petitioner herein.

6. On perusal of the records, it is observed that the suit was filed in the year 2015 by the plaintiff claiming partition. Further, it is observed that during the pendency of the suit, the fifth defendant purchased the 4/5th share of defendants 1 to 4 over the suit I item property and he has filed I.A.No.638 of 2016 to implead him as fifth defendant in the said suit and the same has been allowed by the Court below and the plaintiff has filed an another application to implead the Municipality, Srivilliputtur as the sixth defendant, for which, the fifth defendant stated that the plaintiff has served a copy of the said application seeking for amendment and the same has been numbered before the Court below. Hence, the fifth respondent is aggrieved by the attitude of the plaintiff in filing the said application for delaying the Court proceedings. Hence, the present petition.

7. On enquiry, during the pendency of an application filed by the plaintiff to implead the Municipality, Srivilliputtur as sixth defendant, the fifth defendant has not filed any counter till date. Without filing any counter, the fifth defendant has filed the present petition for speedy disposal.

8. On perusal of the records, it is observed that it is for the petitioner herein/fifth defendant to file his counter if necessary in time for the said I.A., which was filed by the plaintiff. Hence, the fifth defendant cannot have any grievance over the adjournment order of the trial Court. When the fifth defendant himself filed an I.A. at a very belated stage, the plaintiff has filed an another I.A., and the order in adjourning the case was passed by the Court below is in order.

9. In view of the above, there is no merit in this Civil Revision Petition and the same is dismissed with cost of Rs.500/-. The petitioner herein/fifth defendant is directed to pay a sum of Rs.500/- to the credit of Chief Justice Relief Fund within a period



of two weeks from the date of receipt of a copy of this order. The learned Additional Subordinate Judge, Srivilliputtur, is directed to dispose of the suit in O.S.No.175 of 2015 at the earliest.

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Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

Mm

To

1.The Additional Subordinate Judge,
Srivilliputtur.

2.The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

3.The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate
(SR-58285[F] dated 02/04/2019)

CRP(MD) No.648 of 2019
02.04.2019

ES/DS/26.04.2019/3P/5C