



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.08.2019

PRONOUNCED ON : 28.08.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) No.1209 of 2019

and

C.M.P (MD) No.6773 of 2019

1.K.Karunakaran

2.Mrs.Geetha Jagadeesan

3.Mr.K.Sakthi Kumar

.. Petitioners/
Defendants 2, 10 & 11

Vs.

Mr.Jeyaseelan

.. Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 02.07.2019 made in I.A.No.166 of 2019 in O.S.No.69 of 2010 by the learned Subordinate Judge, Uthamapalayam.

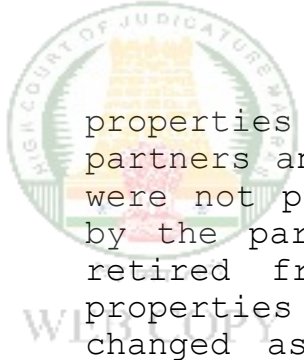
For petitioners : Mr.V.Ramakrishnan

ORDER

Against the dismissal of petition seeking to summon the officials of the Collectorate, Theni, for producing documents and chartered accountants for testifying the details of the suit properties, this revision has been filed.

2.The respondent / plaintiff filed O.S.No.69 of 2019 for the reliefs of partition and permanent injunction in respect of the suit properties. Pending suit, the defendants 2, 10 and 11 have filed the present petition seeking to summon the officials of the Collectorate, Theni to produce 'C' Form Licence in respect of the cinema theatre situated in the suit property and also chartered accountant to testify the details of the suit properties. The Court below has dismissed the same. Against which, the present Civil Revision Petition has been filed.

3.The petitioners / defendants 2, 10 and 11 in their affidavit filed in support of the petition, have stated that the suit



properties were purchased in the name of the plaintiff and other partners and the defendants have contended that the suit properties were not purchased by the individuals, but the same were purchased by the partnership firm and since the respondent / plaintiff has retired from the partnership firm, he has no right over the properties of the firm and the name of the firm was subsequently changed as M/s.Yuvaraja Theatre. To prove the details of the theatre, ownership of the suit properties and particulars of the firm accounts, it is necessary to summon the officials of the District Collectorate, Theni and chartered accountant.

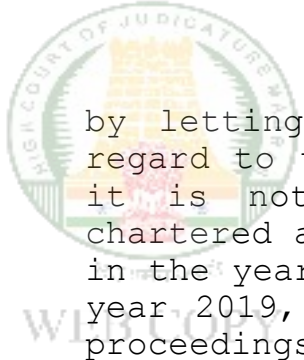
4.The respondent / plaintiff in his counter affidavit has stated that already sufficient documents have been marked and witnesses have also been examined in respect of 'C' form license and in fact 'C' form license holder need not be the owner of the theatre building and therefore, it is not necessary to summon the officials to prove the ownership of the property. The present petition has been filed only to drag on the proceedings. Thus, he would pray for dismissal of the petition.

5.The learned counsel for the petitioners / defendants 2, 10 and 11 would submit that the case of both the parties is revolving around the ownership of the suit properties on the basis of the partnership firm. Therefore, the present petition has been filed to summon the officials of the Collectorate to produce 'C' form license and also chartered accountant to testify the details of the suit properties. But, the Court below has erroneously dismissed the same. Thus, he prayed to set aside the same.

6.Heard the learned counsel for the petitioners and perused the materials available on record.

7.The petitioners / defendants 2, 10 and 11 have filed the present application to summon the officials of the District Collectorate, Theni to produce documents and also chartered accountant to testify the details of the suit properties. The respondent / plaintiff would contend that the suit properties have been purchased in the name of the plaintiff and other partners under individual capacity, whereas the respondent / plaintiff would state that it was purchased by the partnership firm and since the plaintiff has retired from the firm, he has no right over the suit properties.

8.It is seen that the learned Judge has recorded that sufficient documents have been marked as evidence and witnesses have also been examined in respect of the 'C' form license. Perusal of records shows that the holder of the 'C' form license need not be the owner of the property and for proving the ownership of the property, it is enough to produce the documents. The petitioners have not mentioned the details of the documents in the petition. Whether the suit properties have been purchased in the name of the individual or in the name of the partnership firm, can be elucidated



by letting evidence. It is seen that there is no dispute with regard to the administration of the partnership firm and therefore, it is not necessary to summon the Collectorate officials and chartered accountants. It is also seen that the suit has been filed in the year 2010 and the present petition has been filed only in the year 2019, which in my considered opinion, is only to drag on the proceedings and therefore, the dismissal of the present petition by the learned Judge does not require any interference from this Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

The Subordinate Judge, Uthamapalayam.

Copy to:

The Record Keeper, (2 Copies)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.V. RAMAKRISHNAN, Advocate (SR-83766[F] dated 28/08/2019)

ORDER MADE IN
C.R.P (MD) No.1209 of 2019
28.08.2019

smn

JMN(13.09.2019) 3P : 6C