

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Thirty First day of July Two Thousand Twenty

PRESENT

THE HON`BLE MR JUSTICE P. VELMURUGAN

CMP No.4226 of 2020

in CRP(NPD) 3501 of 2011

M.A.ANWAR BASHA [PETITIONER]

Vs

1 THE FIT PERSON [RESPONDENTS]

2 L.S. DILLI BABU

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to implead this Petitioner/Proposed 2nd Respondent as the 2nd Respondent (CMP.4226/2020) in the above CRP.(NPD).3501/2011

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.A.THAMEEM MOHIDEEN, Advocate for the petitioner and of M/S.A.S.KAILASAM & ASSOCIATES FOR 1ST RESPONDENT AND OF MR.M.RAJA SEKHAR FOR 2ND RESPONDENT on behalf of the Respondents the court made the following order:-

This Miscellaneous Petition is filed by the petitioner/proposed 2nd respondent, praying to implead himself in the main Civil Revision Petition.

2. The Revision petitioner/third party filed the main civil revision petition against the respondent/petitioner in Trust OP., challenging the order passed by the learned Principal District Judge, Chengalpet, in Trust O.P.No.138 of 2009,

3. The respondent in the revision filed Trust O.P. before the Principal District Judge, Chengalpet, for granting permission to sell the trust property. The learned Principal District Judge, allowed the petition and permitted to sell the trust property and the respondent was directed to deposit the sale proceeds in the Nationalised Bank and permitted to withdraw the accrued interest. Challenging the said order, the petitioner/third party, filed the CRP before this court.

4. During the pendency of the revision, the petitioner herein filed the present CMP to implead himself as 2nd respondent in CRP. He has stated that he is the subsequent purchaser of the trust property. Therefore, he has to be impleaded as the 2nd respondent in the revision.

5. Heard the learned counsel for the petitioner as well as the respondent/revision petitioner.

6. The learned counsel for the petitioner in CMP would submit that the petitioner purchased the property covered under Order dated 11.11.2009 in Trust O.P.No.138 of 2009 passed by the learned Principal District Judge, Chengalpet. He purchased the property on 19.03.2010 under Document No.229 of 2010. The sale deed registered in favour of him has not yet been released from the office of the Sub Registrar, Guduvanchery, for the reason of undervaluation. He further submitted that vendor of the petitioner promised to release the sale deed dated 19.03.2010 in Document No.229/2010 and furnish the same to the petitioner. But vendor of the petitioner did not honour the promise for almost over a decade despite running pillar to post for his document, requesting the vendor of the petitioner to inform him as to the real status and reason for not honouring the promise. The petitioner was informed by the 2nd respondent about filing of the W.P.No.26004 of 2013 before this court for release of the sale deed executed by the 2nd respondent. The said writ petition was disposed of with certain directions inclusive of release of the sale deed belonging to this petitioner. The 1st respondent has filed a Review in Review Application No.144 of 2014 against the order of this court passed in W.P.No.26004 of 2014.

7. It is contended by the learned counsel for the petitioner that the first respondent in the CMP/revision petitioner, without any authority in law, is challenging the alienation made by the sole respondent in CRP. Since he has purchased the property and the same is based on the permission granted by the Principal District Judge, Chengalpattu, he is a necessary party in the main civil revision petition. Therefore, he has to be impleaded.

8. The learned counsel for the 1st respondent/revision petitioner would submit that it is only a temple property and that 2nd respondent has no authority to sell the temple property without impleading temple as party in the Trust O.P. and also without permission of the Commissioner of HR&CE Department. The 2nd respondent in CMP do not have any power to file application for permission to sell the property from the court. Therefore, since the temple is not the party to the Trust O.P., later on only, he has come to know by way of publication that behind back of the temple founder/trustees, permission was obtained from the court. Therefore, he is challenging the order dated 11.11.2009 passed in Trust O.P.No.138 of 2009 on the file of the District Judge, Chengalpet.

9. The learned counsel for the 2nd respondent in this CMP/sole respondent in CRP, submitted that the temple has nothing to do with the property; it is only the trust property. Now, to administer the temple, the member of the trust applied for permission to sell the property from the court. The court also granted permission. The 1st respondent herein has no authority to challenge the said order, in the main revision petition.

10. Heard and perused the records.

11. Admittedly, the 2nd respondent in C.M.P., filed Trust O.P.No.138 of 2009 on the file of the Principal District Judge, Chengalpet, to get permission from the court to sell the property in which there was no respondent. The learned Principal District Judge also granted permission to sell the property and directed the 2nd respondent herein to deposit the amount of sale proceeds in the Nationalised Bank and permitted to withdraw the accrued interest for performing the requirements of the temple. Challenging the said order, the 1st respondent in this CMP, filed the main CRP. During the pendency of the CRP, the petitioner has filed this C.M.P, to implead himself as 2nd respondent in the main CRP.

12. The main allegation of the 1st respondent in this CMP/revision petitioner is that the properties belong to the temple and therefore, no trustee can sell the property of the temple, even if there is any reason to sell the property, it cannot be done without the permission of the Commissioner under Hindu Religious and Endowment Charitable Act (in short "HR&CE Act"). The Trust is a Public Religious Trust, managing the temple and the properties are for the benefit of the temple and no alienation could be made, without the express consent in writing from the Commissioner HR&CE Department, under Section 34 of the HR&CE Act. In the Trust O.P., the 2nd respondent in this CMP, has not impleaded HR&CE department as party or the Idol or the Temple as party to the proceedings. So, without adding the Idol or the Temple or Commissioner of HR&CE department, they obtained the order behind the back. Therefore, they are challenging the order. Therefore, once the authority of the 2nd respondent/Petitioner in Trust O.P., itself, is challenged by the 1st respondent, as a 3rd party, the petitioner is not a necessary party in this Revision Petition.

13. The 1st respondent herein is only challenging the order passed by the Principal District Judge, Chengalpet, in Trust O.P.No.138 of 2009 and this court has to verify the veracity of the said order. Once the 2nd respondent has got power to alienate the property and the court can grant permission to alienate the property to the 3rd party, the role of the petitioner herein has nothing to do with the Revision Petition. Therefore, this court finds that the petitioner/proposed 2nd respondent, is not a necessary party in the main Civil Revision Petition. Further, the learned Principal District Judge, Chengalpet, in the order passed in the Trust O.P.No.138 of 2009, does not specifically given any permission to sell the property to the petitioner herein. The

challenge in the main CRP is only questioning the authority of the 2nd respondent for seeking permission to sell the trust property. In fine, there is no merit in the C.M.P. Accordingly, this CMP is dismissed. No cost.

-sd/-
31/07/2020
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL DISTRICT JUDGE
CHENGALPATTU

C.C. to MR.A.THAMEEM MOHIDEEN Advocate on payment of
necessary charges

Order
in
CMP.4226/2020
IN CRP(NPD).3501/2011
Date :31/07/2020

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
MJ 06/08/2020

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