



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.1013 of 2019

and

C.M.P. (MD) No.5589 of 2019

WEB COPY

A/M.Bhagavathi Amman Tirukoil,
Through its Hereditary Trustees,
1.P.Alaguvel
2.V.Tirupathy @ Venkitasamy
Ward No.12, Door No.48,
Keelaraaj a Veethi, Chinnamanur,
Uthamapalayam Taluk,
Theni District.

.. Petitioner/1st Respondent/
Petitioner

-vs-

1.K.Thavamani Servai (Died)

.. 1st Respondent/2nd Respondent/
Respondent

2.Ramanathan

.. 2nd Respondent/Petitioner/
Third Party

3.Marudhayee @ Marudhaiammal

4.Udaya

5.Shanthi

6.Maharajan

7.Kathiresan

8.Kumaresan

9.Karthick

10.Kannan

.. Respondents 3 to 10

[Respondents 3 to 10 are brought on record as LR's of the
deceased 1st respondent vide court dated 23.11.2021 in
CMP(MD) No.9782/2021 in CRP(MD) No.1013/2019]

Prayer :- Petition filed under Article 227 of the Constitution of
India to set aside the order dated 12.12.2018 made in
I.A.No.164/2017 in P.T.No.81/2017 on the file of Special Deputy
Collector, Revenue Court, Madurai.

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.G.Solai Raja



ORDER

The Trustees of the petitioner/Temple seek to challenge the order dated 12.12.2018, passed by the Special Deputy Collector, Revenue Court, Madurai, impleading the 2nd respondent herein as a party respondent in the proceedings.

2.The brief facts are as follows:-

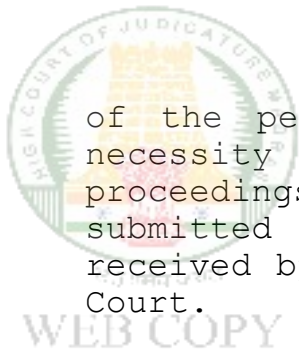
2.1.The petitioner/Temple had filed a petition before the Special Deputy Collector, Revenue Court, Madurai, against the deceased 1st respondent for evicting him on the ground of wilful default in respect of the rents due for over nine faslis starting from the year 2008. Pending the proceedings, the 2nd respondent herein had filed an application in I.A.No.164 of 2017 to implead himself as a party to the proceedings. The reason given for seeking to have him impleaded is that he is a Trustee of the revision petitioner/Temple and that he has an order in his favour in respect of the above Temple. All these factors have been suppressed by the revision petitioner and the deceased 1st respondent and the petition has been collusively filed. He would submit that he is a necessary party to the proceedings.

3.The Special Deputy Collector, Revenue Court, Madurai, by his order dated 12.12.2018, has allowed the application on the ground that the trustees representing the revision petitioner-Temple have not produced documents to show that they are the trustees whereas, the 2nd respondent has produced the decree in his favour in O.S.No.280 of 2010 dated 21.04.2015 on the file of the District Munsif Court, Uthamapalayam and the judgment in A.S.No.15 of 2015 against O.S.No.280 of 2010 before the District Munsif, Uthamapalayam.

4.Pending revision, the 1st respondent died and his LRs were brought on records as respondents 3 to 10.

5.Mr.R.Suriyanarayanan, learned counsel appearing for the petitioner would submit that by reason of the order passed by the Division Bench of this Court in A.S.No.635 of 1984, the trustees had to be elected from each branch and there will always be two trustees one representing each branch. Pursuant to the said judgment, the representatives of each clan were being appointed as the trustees and the present trustees are one who have instituted the above petition. The petition has been filed by the revision petitioner as the 1st respondent herein is in arrears of rent. The petition for impleading appears to be a collusive one, made with an intention of defeating the right of the Temple.

6.The learned counsel for the respondents would fairly concede that the persons, who have instituted the petition, are the trustees



of the petitioner Temple. In these circumstances, there is no necessity for the 2nd respondent to be impleaded as a party to the proceedings. Learned counsel for the respondents while arguing had submitted that some of the rents due for some faslis have been received by the 2nd respondent and this had to be stated before the Court.

7. In view of the above this Court is of the opinion that the 2nd respondent is neither necessary, nor a proper party to the proceedings. Therefore, the order passed by the Special Deputy Collector, Revenue Court, Madurai, dated 12.12.2018 is set aside and the Civil Revision Petition is allowed. It is made clear that the 2nd respondent can adduce evidence on behalf of respondents 3 to 10, in case he has received the rent whereby, the claim of the 1st respondent that he has paid the rent, the 2nd respondent can get into the box and support respondents 3 to 10 that the 1st respondent is not in arrears in respect of certain faslis where he has received arrears. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

Note:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The District Munsif, Uthamapalayam.

2.The Special Deputy Collector,
Revenue Court, Madurai.

+1 CC to M/s.G.SOLAIRAJA, Advocate (SR-38629[F] dated 14/12/2021)

C.R.P. (PD) (MD) No.1013 of 2019

Dated: 13.12.2021

GM(CO)

GC(31.01.2022) 3P 4C