



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 07.04.2021

Preserved On : 08.06.2021

CORAM

THE HONOURABLE MR.JUSTICE **K.MURALI SHANKAR**

WEB COPY

C.R.P. (MD) .Nos.588 and 590 of 2020

and

CMP (MD) No.3743 of 2020

Sulthan (died)

1.Abdullah Khan

2.Habibullah Khan

3.Naseerkhan

4.Rahamadullahkhan

5.Badhusha Khan

6.Kalima Beevi

7.Katheesha Beevi

8.Mohammed Khan

9.Haron Rasheedkhan : Petitioners/ Respondents 1 to 10 /
Plaintiffs 2 to 10 (in both petitions)

Vs.

1.Ahmed Yusuf : 1st Respondent/ Proposed 2nd Defendant
(in both petitions)

2.Thilsath Sidhika : 2nd Respondent/11th Respondent/
Defendant (in both petitions)

COMMON PRAYER : Civil Revision Petitions have been filed under Section 227 of Constitution of India, to set aside the fair and decreetal orders dated 05.03.2020 made in I.A.No.259 and 258 of 2018, respectively on the file of the Sub Court, Mudukulathur and allow the revision.

(in both petitions)

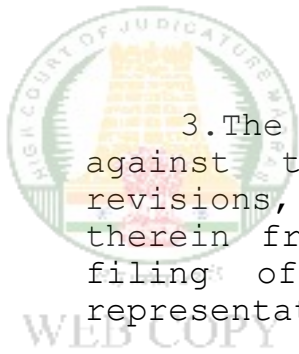
For Petitioners : Mr.PTS.Narendravasan

For Respondents : Mr.K.Kumaravel

COMMON ORDE

These Civil Revision Petitions are directed against the order passed in I.A.Nos.259 and 258 of 2018, respectively, in O.S.No.29 of 2018 on the file of the Subordinate Court, Muthukulathur.

2.For the sake of convenience and brevity, the parties will hereinafter be referred as per their status/ranking before the trial Court.



3.The deceased plaintiff has filed a suit in O.S.No.29 of 2018 against the only defendant, who is the second respondent in these revisions, claiming permanent injunction restraining the defendant therein from evicting him except under due process of law. After filing of the suit, the plaintiff had died and his legal representatives got themselves impleaded as plaintiffs 2 to 10.

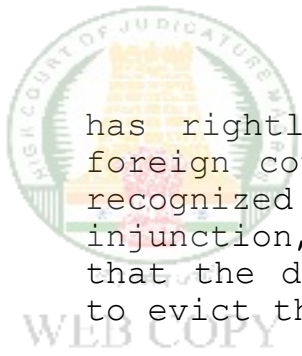
4.During the pendency of the suit, the first respondent in the revision petitions as third party, has filed two applications one in I.A.No.258 of 2018 under Order 3 Rule 2 C.P.C, to recognize his power of attorney and the second one is I.A.No.259 of 2018 under Order 1 Rule 10(2) C.P.C, for impleading him as second defendant in the above suit.

5.The plaintiffs have filed a counter statement raising serious objections for impleadment of the proposed party and consequently, for recognizing his power of attorney.

6.The learned Subordinate Judge, after conducting an enquiry, has passed the impugned orders, allowing both the applications and thereby, permitting the impleadment of the proposed party as second defendant. Aggrieved by the said orders, the plaintiffs have come forward with the present revision petitions.

7. The main contentions of the plaintiffs is that the demised premises were owned by the husband of the defendant Hasan Ibrahim, that the plaintiff Sulthan has entered into a lease agreement with the said Hasan Ibrahim in the month of January 2002 and he had been paying rents, that since the defendant has informed that she had obtained documents in respect of the suit property from her husband, the deceased plaintiff has entered into an oral agreement in the year 2005 and he had been paying the rents to her, that after the death of the first plaintiff on 19.06.2018, the plaintiffs 2 to 9 have been running a hotel and by residing in the other portion of the property have been paying the rents to the defendant, that the proposed party is a third party totally unconnected with the suit property, that since the defendant has attempted to evict them by force, the first plaintiff was constrained to file the above suit for permanent injunction and that since the proposed party is totally a unnecessary party to the above proceedings, the orders of the trial Court in impleading the proposed party and consequently, recognizing his power agent are liable to be set aside.

8.The learned counsel for the proposed party would submit that the defendant has executed Inam settlement deed on 25.07.2017 in favour of the proposed party, that since the plaintiffs have refused to pay the rent, he directed them to vacate the suit property, that the deceased plaintiff purposely and willfully filed the above suit against the previous owner of the suit property, that since the proposed party is the owner of the suit property, the trial Court



has rightly impleaded him and that since he has been moving to foreign country due to his avocation, the trial Court has rightly recognized his power agent. No doubt, the above suit is for bare injunction, but the revision petitioners have specifically alleged that the defendant is their owner and that since she had attempted to evict them, his father was forced to file the above suit.

9.It is pertinent to mention that even before this Court, the revision petitioners have reiterated their earlier stand that the proposed party is a stranger and unconnected with the suit property. It is pertinent to note that the defendant has filed her written statement as early as on 10.08.2018 and wherein, she had specifically stated that she had already executed a registered Inam settlement deed on 25.07.2017 in favour of his brother, the proposed party herein and the factum of the change of ownership was known to the deceased plaintiff. The defendant has further stated that since the suit property was in a dilapidated condition and the same was required by the proposed party for making new constructions, he requested the plaintiff to vacate the suit property, that the deceased plaintiff had requested for six months time and the same was granted, that subsequently, the plaintiff had refused to pay the rent and filed the above suit only against the defendant by alleging that she is the owner of the property.

10.Though the defendant has taken such a stand that the deceased plaintiff or the present plaintiffs have not taken any steps to implead the proposed party, as rightly contended by the learned counsel for the respondent, the plaintiffs should have taken steps for impleading the proposed party immediately after coming to know that he is the owner of the suit property and that even after knowing the same, when the proposed party has filed the above application seeking impleadment, they have raised serious objections and after passing of the orders for impleadment, they have filed the above revisions.

11.No doubt, the deceased plaintiff has not alleged any cause of action against the proposed party, but according to the proposed party, even after knowing that the proposed party has become the owner of the suit property, the suit has been filed purposely and willfully against the previous owner and not impleading the proposed party. Whatever it is, since the defendant has taken a specific stand that the proposed party is the owner of the suit property, the decision of the trial Court in permitting the impleadment and recognizing the power agent of the proposed party to take part in the proceedings on his behalf cannot be found fault with. Hence, this Court decides that the revisions are absolutely devoid of merits and are liable to be dismissed.

12.Considering the stand of the revision petitioners even after filing of the written statement by the defendant and the conduct of



the petitioners, this Court further decides that the revision petitioners must be mulcted with heavy costs.

13. In the result, the Civil Revision Petitions are dismissed, with cost of Rs.5,000/- payable by the petitioners to the Legal Services Authority, attached to this Bench within four weeks from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed.

14. Post after six weeks, for reporting compliance.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Subordinate Judge, Mudukulathur.

Copy to

1.The Secretary Legal, Senior Authority,
Madurai Bench of Madras High Court, Madurai .

2.The Section Officer,
Judicial Section(Psoting)
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.K.KUMARAVEL, Advocate (SR-18991[F] dated 08/06/2021)

+1 CC to M/s.PT.S.NARENDERA VASAN, Advocate (SR-19065[F] dated 09/06/2021)

C.R.P. (MD) .Nos.588 and 590 of 2020
and
CMP (MD)No.3743 of 2020
08.06.2021

KB(18.06.2021) 4P 6C