



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2021

CORAM :

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (MD) Nos.992 and 993 of 2021

and

C.M.P. (MD) No.5649 of 2021

1.R.Raghavan

2.T.S.Meharajan

... Petitioners in both C.R.Ps.,

vs.

1.Samy Chettiar and Nandavanam

Buildings and Private Trust,

through its Managing Trustee,

G.Mohan,

S/o.Ganapathi Chettiar,

D.No.14, Thattara Lane,

West Masi Street,

Madurai - 625 001.

...1st Respondent/Petitioner/Plaintiff

2.Musafer Gani

... 2nd Respondent/Respondent/Defendant

PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.11.2020 and 11.02.2021 made in I.A.Nos.161 and 176 of 2020 in O.S.No.7 of 2019 on the file of the learned District Munsif, Paramakudi.

For Petitioners

in both C.R.Ps.,

: Mr.PT.S.Narendravasan

For R1

in both C.R.Ps.,

: Mr.P.Ganapathi Subramanian

For R2

in both C.R.Ps.,

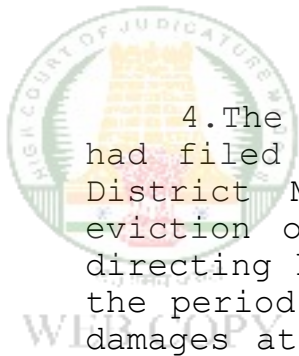
: Mr.Sivathilagar

COMMON ORDER

The plaintiffs 2 and 3 in the suit in O.S.No.7 of 2019 are the revision petitioners in these two Civil Revision Petitions.

2.C.R.P.(MD) No.992 of 2021 is filed challenging the order passed in I.A.No.161 of 2020 in and by which, the revision petitioners/plaintiffs 2 and 3 have been struck off from the array of the plaintiffs. C.R.P.(MD) No.993 of 2021 is filed challenging the consequential order amending the plaint.

3.The facts in brief, which are necessary to dispose of these Civil Revision Petitions, are as follows:-



4.The 1st respondent and the revision petitioners as plaintiffs had filed a suit in O.S.No.7 of 2019 on the file of the learned District Munsif, Paramakudi, against the 2nd respondent seeking eviction of the 2nd respondent from the suit schedule properties, directing him to pay the arrears of rent of Rs.18,400/- spread over the period from April 2014 to February, 2019 and thereafter, to pay damages at the rate of Rs.2,000/- for the continuous usage for the period of occupation.

5.Pending the suit and after filing of the written statement by the 2nd respondent/defendant, the 1st plaintiff has filed an application in I.A.No.161 of 2020 to remove the plaintiffs 2 and 3 from the array of plaintiffs in the suit. The striking out of plaintiffs 2 and 3 was sought on the basis that they have colluded with the defendant and acted against the interest of the trust. Despite making such a serious charge, these plaintiffs 2 and 3/revision petitioners are not made parties to the said application. The 1st plaintiff/petitioner had also filed I.A.No.176 of 2020 for a consequential amendment. The learned District Munsif, Paramakudi, by a cryptic non-speaking order dated 19.11.2020 proceeded to allow I.A.No.161 of 2020. Consequently, striking off the 2nd and 3rd plaintiffs in the plaint and allowing the consequential amendment in I.A.No.176 of 2020. Challenging the same, the revision petitioners are before this Court.

6.Heard both side counsels.

7.An application has been filed to strike off two of the parties from the proceedings, who have been arrayed as plaintiffs 2 and 3 and who have jointly filed the suit. In the affidavit filed in support of the petition in question, the 1st plaintiff/1st respondent herein has made serious allegations stating that the revision petitioners herein have colluded with the tenant, namely, the 2nd respondent herein and have acted against the interest of the trust in the trust properties. Therefore, the 1st plaintiff has pleaded a breach of trust on the part of the revision petitioners herein. While making such a serious allegations, the persons, against whom these allegations are made, should have been given an opportunity to meet the said allegations. However, the learned District Munsif, Paramakudi has not bothered to consider the above. That apart, the order allowing the said application is a totally non-speaking one. The reason given for allowing the application would demonstrate the total non application of mind on the part of the learned District Munsif, Paramakudi.

8.Therefore, the order passed in I.A.No.161 of 2020 and the consequential order passed in I.A.No.176 of 2020 deserves to be set aside and are accordingly set aside and I.A.No.161 of 2020 is sent back to the District Munsif Court, Paramakudi with a direction that the 1st plaintiff herein impleads the revision petitioners herein in



the said application and the learned District Munsif, Paramakudi after receiving the counter of the revision petitioners and hearing the parties is directed to pass a detailed order.

9. In fine, these Civil Revision Petitions stand allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The District Munsif,
Paramakudi.

+1 CC to M/s.PT.S. NARENDRAVASAN, Advocate (SR-35097[F]
dated 19/11/2021)

+1 CC to M/s.S. SIVA THILAKAR, Advocate (SR-35146[F]
dated 19/11/2021)

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NSN (CO)

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