



OSA.No.345 of 2012

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM:

THE HONOURABLE MR JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS JUSTICE R.KALAIMATHI

O.S.A.No.345 of 2012

P.S.Karthikeyan

...Appellant

Vs.

1.M/s.Shirdi Sai Sakthi Foundation Trust,
Office at No.1/355, Kalamegham Street,
Mogappair West, Chennai – 600 037.

Regd. Office at No.59,
Madhya Shirdi Ner Swamiyar Gate,
Maraimalai Nagar, Chennai – 600 209.
Rep. by its Founder Managing Trustee S.Ramesh.

2.R.Maikandan,
Trustee.

3.M.Arumugam,
Trustee

4.The Advocate General,
High Court,
Madrast – 600 104.



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5.J.Rajesh [R5 – Deleted vide EB.Sr.105303 of 2012]

6.T.Ravichandran

[R6 impleaded as party respondent vide Court order dated 10.03.2021 in CMP.No.4575 of 2021 in OSA.No.345 of 2012]

...Respondents

Prayer: Original Side Appeal filed under Order XXXVI Rule 1 of the Original Side Rules read with Clause 15 of the Letters Patent to set aside the judgment and the decree dated 01.09.2008 passed in C.S.No.628 of 2007.

For Appellant : Mr.V.R.Karthikeyan

For Respondents : Mr.Ashok Menon for R1

R2 and R3 – Given up

R4 – No appearance

R5 – Deleted
vide EB.Sr.105303 of 2012

Mr.P.B.Sampathkumar for R6



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J U D G M E N T

WEB COPY (Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

The challenge in the appeal is to the decree in a suit filed under Section 92 of the Code of Civil Procedure permitting sale of the property belonging to the 1st respondent Trust.

2. The suit in C.S.No.628 of 2007 was instituted by the Trust and two of the Trustees seeking permission for sale of the property of the Trust on the ground that the property does not fetch any income and the Trust is finding it difficult to continue its activities for want of finances. A resolution passed by the Board of Trustees on the 20th of February 2007 was also made a basis of seeking permission for sale. This Court granted permission for sale of the property and the property was eventually sold to one J.Rajesh S/o. Jeyasingh, a resident of East Tambaram. Though the said Rajesh was shown as 5th respondent in the appeal, his name was struck off from the party array which we assume must have been done prior to 12.09.2012, since a Division Bench of this Court had on 12.09.2012 while issuing notice regarding admission in the appeal has passed the following



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order:

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“Notice regarding admission returnable in one week. Mr.Ashok Memon, learned counsel takes notice for the first respondent. Learned counsel for the appellant, who is the third party, undertakes to implead the purchaser – Rajesh”

3. Though such an undertaking was given on 12.09.2012, no steps have been taken till date to implead the said Rajesh, whose name was struck off from the grounds of appeal. We find that the said Rajesh was a party in M.P.No.2 of 2009, an application filed seeking condonation of delay in filing the appeal. He has also been served through Court in the said application. Despite the above, no steps have been taken to implead the said Rajesh.

4. We are now given to understand that the said Rajesh had sold the property in question to one T.Ravichandran who has been impleaded as the 6th respondent by this Court vide order dated 10.03.2021 made in C.M.P.No.4575 of 2021. The appeal, as it stands, is against the subsequent



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purchaser only. The purchaser of the property pursuant to the permission from this Court is not made a party. We do not think that any purpose could be served by keeping this appeal pending at this distant point of time, since the necessary party has been struck off from the party array and despite the undertaking having been given to this Court on 12.09.2012, no steps have been taken to implead that party.

5. The appeal is therefore **dismissed** on the short ground of non-impleading of the necessary party. No costs.

(R.S.M.,J.) (R.K.M.,J.)
21.09.2023

dsa

Index :No
Internet :Yes
Neutral Citation :No
Speaking order



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