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CRP No.2793 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.02.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P. No.2793 of 2019
and
C.M.P. No.18297 of 2019

J.Uga

.... Petitioner

Vs

1. Public Education Trust,
rep. by its Founder Trustee Jayaseelan
S/o.late V.P.Sigamani,
Managing Director,
No.32, 35th Street,
Ashok Nagar, Chennai – 83.

2. Prasanna
3. Santhosh Kumar
4. R.Parthiban
5. C.Murugan
6. D.Aravind
7. N.Moorthy
8. M.Jeeva
9. N.Parvatham
10. V.Selvi
11. B.Murali
12. M.Saravanan
13. Tamil Nadu Slum Clearance Board,
Rep. by its Chairman,
Kamarajar Salai,
Chepauk, Chennai.

.... Respondents



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Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order and decreetal order dated 03.08.2019 passed in I.A.No.9494 of 2017 in O.S.No.6060 of 2015 dated 03.08.2019 on the file of the learned V Assistant Judge, City Civil Court at Madras.

For Petitioner : S.Sadasharam

For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed as against the order and decreetal order dated 03.08.2019 passed in I.A.No.9494 of 2017 in O.S.No.6060 of 2015 dated 03.08.2019 on the file of the learned V Assistant Judge, City Civil Court, Chennai, thereby allowing the petition to implead the respondents 1 to 12 herein.

2. The petitioner is the plaintiff and the 13th respondent is the sole defendant. The petitioner filed a suit for declaration declaring that the order passed by the 13th respondent herein dated 18.06.2013 and the order dated 20.08.2013 as null and void. Originally, the petitioner is in possession and enjoyment of the subject property which belonged to 13th respondent herein. Subsequently, it was burnt in a fire accident due to third parties. Therefore, the petitioner filed writ petition before this Court in W.P.No.47069 of 2006 and this Court, by an order dated



19.03.2013, directed the 13th respondent to consider the representation of the petitioner sympathetically and pass appropriate order within a period of eight weeks in respect of his claim with regard to the subject property. However, the 13th respondent, by the impugned order in the suit, rejected the claim of the petitioner. Therefore, it was challenged by the petitioner in the present suit.

3. Pending suit, the respondents 1 to 12 herein filed an application to implead themselves as defendants on the ground that the first respondent herein instituted a public educational trust along with the other respondents and the same was registered as document No.7 of 2016 for the purpose to educate the poor people and also donate money for visually challenged person and physically challenged person. All of a sudden, due to cyclone in the year 2016, construction was destroyed. Therefore, they collected money from the public in order to build the building in the subject property. Therefore, they are very much necessary party and prayed to implead in the suit. The Trial Court allowed the said application only on the ground that in order to avoid multiplicity of proceedings and in the interest of justice.



4. A perusal of the records reveals that pending suit, at the instance of the petitioner herein, an Advocate Commissioner was appointed in order to inspect the suit property and noted down the physical features. Accordingly, the Advocate Commissioner inspected the suit property and filed his report. The report of the Advocate Commissioner reveals that the suit property is lying vacant and there are third parties objected to inspect the suit property and only with the aid of police the Advocate Commissioner inspected the suit property and note down the physical features.

5. That apart, the present suit has been filed only to challenge the order of rejection by the 13th respondent herein. If at all there is any claim over the same property, the respondents 1 to 12 can approach the Slum Clearance Board for appropriate relief. Therefore, they are unnecessary party to the present suit filed by the petitioner and the Trial Court ought not to have impleaded themselves as a party.

6. In view of the above, the order and decreetal order dated 03.08.2019 passed in I.A.No.9494 of 2017 in O.S.No.6060 of 2015 dated 03.08.2019 on the file of the V Assistant Judge, City Civil Court,



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Chennai, is hereby set aside. Accordingly, this Civil Revision Petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

02.02.2023.

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The V Assistant Judge,
City Civil Court, Chennai.



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