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C.M.P.No.1109 of 2024

C.M.P.No.1109 of 2016
in
A.S.No.441 of 2002

RMT.TEEKAA RAMAN, J.

Mr.A.Muthukumar, learned counsel filed vakalat for the Petitioner, who is the Plaintiff in the Suit.

2.C.M.P.No.1109 of 2016 has been filed to implead the 15th Respondent herein as 10th Respondent in the above Appeal.

3.By an earlier order dated 04.07.2024, the following order was passed by this Court:

“2.By an order dated 13.02.2024, the Hon'ble Supreme Court in Civil Appeal Nos.2163-2165 of 2024 has passed the following order:

“Be that as it may, we are inclined to set aside the impugned order. Since the High Court has not gone into the merits, but has merely held that the Trust is also entitled to be heard as a party Respondent.

The impugned order is accordingly set aside to be heard afresh, which would mean hearing of A.S.No.441 of 2002 and Cross Objection No.80/2002 after deciding the Petition filed in C.M.P.No.1109/2016. Hence, the matter stands remitted back to the High Court.

We request the High Court to decide the Petition filed in C.M.P.No.1109/2016 by first issuing notice to the proposed respondent, namely, Sundarathammal Dharmachatiram and Charitable Trust and after deciding the said application, the Appeal and the



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Cross Objection ought to be taken up to be decided.”

3.After the orders of the Hon'ble Supreme Court remanding both CMP.No.1109 of 2016 and A.S.No.441 of 2002 along with Cross. Obj.No.80 of 2002, the matter is posted before this Court, today.

4.Mr.B.Ramkumar, learned counsel appearing for R15 in CMP.No.1109 of 2016 and proposed 10th Respondent in A.S.No.441 of 2002 made endorsement in the court bundle that he has no objection for allowing CMP.No.1109 of 2016. It is represented that the 9th Defendant in the Suit viz., Ramachandran died without legal heirs and hence, the present party has to be added as Defendant No.10 in the Suit.

5.A.S.No.441 of 2002 was filed against the Judgment and Decree passed in O.S.No.110 of 1999 dated 13.08.2001, wherein after contest 1/5th share in respect of ½ share in 'A' & 'B' schedule was granted. In the said order, the trial Court at paragraph No.14, based on Ex.B.22 and the attending circumstances therein, rendered a finding that 50% of the schedule property viz., 'A' & 'B' shall go to Trust functioning in the name of “Thavasimuthu Nadar's wife Sundarathammal Dharma Chathiram and Charitable Trust” and the Trust property cannot be treated as family property and cannot be divided for the family and accordingly, the said O.S. was partly allowed.

6.Aggrieved against the said order, the Defendants 1 to 6 preferred A.S.No.441 of 2002, wherein the first Plaintiff was arrayed as first Respondent. Defendants 8 and 10 who were



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arrayed as Respondents 3 & 5 in A.S.441 of 2002, they filed counter claim in respect of disallowed portion. It appears that CMP.No.749 of 2011 was filed by the Appellant to raise additional grounds.

7.Since Mr.A.Muthukumar, learned counsel seeks time to file fresh vakalat and there is a specific order of the Hon'ble Supreme Court to dispose of the CMP.No.1109 of 2016 before taking up the Appeal Suit, the case stands posted to 08.07.2024.”

4.Heard the learned counsel appearing on behalf of the respective parties.

5.The learned counsel for the proposed party viz., Sundarathammal Dharmachatiram Charities made an endorsement that he has no objection to implead himself.

6.Learned counsel for the Petitioner/Plaintiff has taken out this application. Since half of the properties mentioned in the schedule standing in the name of the Sundarathammal Dharmachatiram Charities, the said charity is necessary party for adjudication and in the interest of justice, CMP.No.1109 of 2016 is hereby ordered as prayed for. Registry is directed to carryout necessary amendment in the cause title.

09.07.2024
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RMT.TEEKAA RAMAN, J.

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Dated: 09.07.2024
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