



CRP No.4293 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP Nos.4293 of 2023

1.M.Sivakumar

2.S.Jaya

... Petitioners

VS

1.Sri Vembuli Amman Temple

Arumuga Naicker Estate Trust,

Represented by its Trustee, E.Venugopal,

New No.32, Old No.47, Jambuli Street,

Kodungaiyur, Chennai - 600 118.

2.M/s. Chennai Jambuli Gramam Vembuli Amman Trust,

Represented by its Trustees,

(i) K.Gopalakrishnan -Founder & President,

(ii) P.Baskar- Secretary & Treasurer,

No.12, Sriram Nagar,

Kodungaiyur, Chennai- 600 118.

3.K.Gopalakrishnan-Founder & President,

M/s.Chennai Jambuli Gramam Vembuli Amman Trust,

No.12, Sriram Nagar,

Kodungaiyur, Chennai -600 118.



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4. P.Baskar (alias) Bhaskaran -Secretary & Treasurer
M/s.Chennai Jambuli Gramam Vembuli Amman Trust,
No.12, Sriram Nagar,
Kodungaiyur, Chennai-600 118.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Civil Procedure Code to set aside the fair and decreetal order in IA No.1 of 2023 in OS No.7292 of 2022 dated 16.08.2023 passed by the XVI Additional City Civil Court, Chennai.

For Petitioner : Mr.G.B.Sabari Das

For Respondents : Mr.P.Rajkumar Pandian
for first respondent

ORDER

The civil revision petition is filed to set aside the fair and decreetal order in IA No.1 of 2023 in OS No.7292 of 2022 dated 16.08.2023 passed by the XVI Additional City Civil Court, Chennai.

2. The petitioners are the plaintiffs and the respondents 2 to 4 are defendants 1 to 3 in OS No.7292 of 2022 on the file of the VI Additional City City Court, Chennai. The petitioners/plaintiffs had filed the suit against



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the respondents 2 to 4 for recovery of lease amount with interest to the tune of Rs.1,24,23,923/- but however restricted to one Crore. Pending suit, the first respondent herein has filed an application in IA No.1 of 2023 to implead him as the fourth defendant in the suit as alleged lease property belongs to the first respondent. According to the petitioners, the suit is only for recovery of money and it is not a title suit. Therefore, the first respondent need not be impleaded as a party as no title over the property is involved. The trial court, without considering the said aspect, by order dated 16.08.2023 has allowed the said application. Challenging the said order, the petitioners have filed the present civil revision petition.

3. Learned counsel for the petitioners submits that the suit is only for recovery of money and it is not a title suit. Therefore, the first respondent need not be impleaded as a party as no title over the property is involved. Hence, he seeks for setting aside the order passed by the trial court.



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4. Learned counsel for the first respondent submitted that the petitioners by way of filing a money suit, attached the property of the first respondent in IA No.290 of 2017 in CS No.27 of 2017 (now transferred and renumbered as OS No.7292 of 2022). Therefore, the application to implead the first respondent as a party in the suit was filed.

5. Learned counsel for the first respondent further submits that fraudulently respondents 3 and 4 had executed a lease deed in favour of the first and second petitioners. Further, proposed party/first respondent has filed OS No.3941 of 2017 for cancellation of alleged lease deed, which was dismissed by the XV Additional City Civil Court. Further contended that now the proposed respondent/first respondent that is fourth defendant in the suit is in possession of the property. Therefore, he supports the impugned order and seeks to dismiss the civil revision petition.

6. Heard the parties and perused the materials available on record.



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7. It is not disputed that the petitioners/plaintiffs had filed the suit against the respondents 2 to 4 for recovery of money. Even upon the lease dated 30.11.2009, since the property was not enjoyed by the petitioners, the petitioners sought to return the lease amount with interest, and though in the plaint they claimed 1,24,23,923/-, they restricted their claim to one crore. On going through the plaint, it is noticed that it is a simple suit for recovery of money given on various dates by the petitioners to the respondents 2 to 4 based upon the alleged lease deed dated 30.11.2009. Since in IA No.290 of 2017, the property has been attached, the first respondent need not be impleaded as a party in the suit. However, the first respondent can very well file an application to raise the attachment made in the interlocutory application in IA No.290 of 2017. Further, it is to be noted that the first respondent is in possession and enjoyment of the property.

8. Under these circumstances, in a suit for recovery of money filed by the petitioners/plaintiffs against the respondents 2 to 4, the first respondent need not be impleaded as a party. He is not the necessary party to



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adjudicate the claim between the petitioners and the respondents 2 to 4.

Therefore, the impugned order is unsustainable. Hence, the order dated 16.08.2022 is set aside and the civil revision petition is allowed.

9. Liberty is given to the first respondent to file an application to vacate the attachment made in the interlocutory application in IA No.290 of 2017. There shall be no order as to costs. Consequently, CMP No.26153 of 2023 is closed.

13.02.2024

Index: Yes/No
Internet: Yes/No
mrn

To

The XVI Additional City Civil Court, Chennai.



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V.SIVAGNANAM, J.

(mrn)

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