



C.R.P.(MD)No.3103 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.12.2023

Pronounced on : 26.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3103 of 2023

and

C.M.P.(MD)No.16000 of 2023

1. T.S.Megarajan

2. Raghavan

... Petitioners

Vs.

1. G.Mohan

(Paramakudi Samy Chettiyar Nanthavanam
Private Trust Managing Trustee)

2. R.Ramanathan

... Respondents

Prayer : This Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 16.10.2023 made in I.A.No.4 of 2023 in I.A.No.3 of 2023 in I.A.No.2 of 2023 in O.S.No.60 of 2021 on the file of the District Munsif Court, Paramakudi and allow the above civil revision petition.



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For Petitioners : Mr.D.Senthil

For R1 : Mr.T.Balarathinakumar

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.4 of 2023 in I.A.No.3 of 2023 in I.A.No.2 of 2023 in O.S.No.60 of 2021 dated 16.10.2023 on the file of the District Munsif Court, Paramakudi, dismissing the application filed under Order 7 Rule 14(3) of the Code of Civil Procedure.

2. The first respondent as plaintiff has filed an ejectment suit in O.S.No.60 of 2021 against the second respondent/first defendant and also for recovery of rent arrears. Pending suit, the revision petitioners claiming to be the Trustees of the first respondent/plaintiff Trust have filed an application in I.A.No.14 of 2022 to implead themselves as defendants in the suit in O.S.No.60 of 2021 and after enquiry, the said application was ordered to be allowed. It is not in dispute that the first respondent/plaintiff Trust has also filed 8 ejectment suits including the present suit and after allowing of the impleadment applications in all the suits, has preferred revisions before this Court and this Court, vide common order dated



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08.02.2023, dismissed the revisions. Thereafter, the revision petitioners, who were impleaded as defendants 2 and 3, have filed their written statement. After framing of necessary issues, trial was commenced and P.W.1 was examined in chief and when the case was pending for cross-examination, the revision petitioners/defendants 2 and 3 have filed an application under Order 6 Rule 17 C.P.C. seeking permission to amend the written statement in I.A.No.2 of 2023. The first respondent/plaintiff Trust has filed a counter statement raising objections. The learned District Munsif, after enquiry, has passed an order dated 18.07.2023 dismissing the amendment application. Aggrieved by the order of dismissal, the revision petitioners/defendants 2 and 3 have filed a review application in I.A.No.3 of 2023 under Order 47 Rule 1 C.P.C. and Section 114 C.P.C. to review the order passed in I.A.No.2 of 2023. Pending review application, the revision petitioners/defendants 2 and 3 have filed the present application in I.A.No. 4 of 2023 under Order 7 Rule 14(3) C.P.C. for production of additional documents.

3. The case of the revision petitioners/defendants 2 and 3 is that when enquiry was conducted in I.A.No.2 of 2023, the documents now



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sought to be received were not available with the revision petitioners/defendants 2 and 3, that since the said documents got mixed up with other old documents, they were not able to trace out the same, that the said documents are very much necessary to prove their case, that no prejudice will be caused to the other side and that the revision petitioners/defendants 2 and 3 will be put to irreparable loss and hardship, if the documents are not received. The first respondent/plaintiff Trust has filed a counter statement raising objections stating that the revision petitioners/defendants 2 and 3 have not stated as to when the documents were traced out and in what way the documents are required for amending the written statement, that the very filing of the review application is legally not maintainable and that the above application came to be filed only to drag on the proceedings. The learned District Munsif, after enquiry, has passed the impugned order dated 16.10.2023 dismissing the said application. Aggrieved by the order of dismissal, the present revision came to be filed.

4. It is pertinent to note that in the common order passed by this Court in the civil revisions filed by the first respondent/plaintiff Trust, a learned Judge, while confirming the order of the trial Court allowing the



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impleading applications, has specifically stated that merely because the defendants 2 and 3 were impleaded in the present suit, they cannot claim the status of the Trustee and their claim depends upon the result in O.S.No. 146 of 2020 pending on the file of the Sub Court, Paramakudi and that the tenants in the property are directed to deposit the rent in the respective suits, in which, they are arrayed as defendants and further directed the learned District Munsif, Paramakudi, to dispose of all the eight ejectment suits on or before 31.08.2023.

5. It is pertinent to note that one person, who claimed to be the member of the first respondent/plaintiff Trust, had already filed a suit in O.S.No.146 of 2020 on the file of the Sub Court, Paramakudi to declare that the first respondent/plaintiff Trust as a public Trust and in that suit, the revision petitioners/defendants 2 and 3 have been added as defendants 2 and 3. As already pointed out, the present suit is only for vacating the second respondent/first defendant, who is a tenant under the first respondent/plaintiff Trust from the suit property. Though the impleadment of the revision petitioners/defendants 2 and 3 in the above suit was confirmed, but with a condition that they should not claim the status of the



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Trustee as their claim depends upon the result of the suit in O.S.No.146 of 2020 on the file of the Sub Court, Paramakudi.

6. As rightly contended by the learned counsel appearing for the first respondent, the revision petitioners/defendants 2 and 3 have filed the amendment application seeking orders to amend the written statement alleging that Samy Chettiyar Nanthavanam and Buildings Private Trust and Samy Chettiyar Nanthavanam Private Trust are two different Trusts and that the suit property is not belonging to the first respondent/plaintiff Trust, but it is belonging to the old Trust i.e., Samy Chettiyar Nanthavanam and Buildings Private Trust. As rightly pointed out by the learned counsel appearing for the first respondent, in the proposed amendments, the revision petitioners/defendants 2 and 3 have taken a stand in support of the second respondent/first defendant by raising averments that the second respondent/first defendant has been paying rents regularly to the second revision petitioner/second defendant and there was no willful default and that the first respondent/plaintiff Trust has no cause of action against the defendants and the cause of action alleged was not true. After the dismissal of the amendment application, the revision



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petitioners/defendants 2 and 3 invoked the review jurisdiction and filed the review application, but pending review application, they wanted to produce some documents, which were not available at the time of enquiry in the amendment application.

7. As rightly contended by the learned counsel appearing for the first respondent, even assuming for arguments sake that there are two Trusts, it is for the first respondent/plaintiff Trust to prove that the suit property is belonging to the first respondent/plaintiff Trust, that the second respondent/first defendant was a tenant under the first respondent/plaintiff Trust and that therefore, they are entitled to get the eviction order. Considering the pleadings of the parties and the conduct of the second respondent/first defendant and the revision petitioners/defendants 2 and 3, as rightly contended by the learned counsel appearing for the first respondent, the revision petitioners/defendants 2 and 3 appears to be in collusion with the second respondent/first defendant and are taking a defence or stand in favour of the second respondent/first defendant.

8. The learned counsel appearing for the revision petitioners has relied on the decision of this Court in ***Karuppusamy Vs. Devaraj*** reported



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in **2016 (3) MWN (Civil) 792**, wherein, this Court has held that when trial is yet to be completed, petition to receive additional documents cannot be denied by the trial Court and mere receiving of documents would not amount to adjudicating rights of parties as, admissibility of the said documents can be considered by the trial Court. He has also relied on the judgment of this Court in ***Srinivasa Naicker Vs. Kaliappan alias Kalipandi and others*** reported in **2014 (3) MWN (Civil) 328**, wherein, this Court has held that even though the documents sought to be produced is neither mentioned in the body of the plaint nor categorized under Order 7 Rule 14 C.P.C., the document cannot be eschewed from consideration merely because it has not been mentioned in the plaint. There is no dispute about the above legal position.

9. The learned counsel appearing for the first respondent has relied on the judgment of the Hon'ble Supreme Court in ***Asharfi Devi (Dead) through LRS Vs. State of U.P. and others*** in ***Civil Appeal No.5217 of 2010 dated 01.02.2019***, wherein, the Hon'ble Apex Court has reiterated the settled legal position that every error whether factual or legal cannot be made subject matter of review under Order 47 Rule 1 of the Code,



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though it can be made subject matter of appeal arising out of such order and in order to attract the provisions of Order 47 Rule 1 of the Code, the error/mistake must be apparent on the face of the record of the case. But at present, we are not concerned with the review application and the only point to be decided is as to whether the revision petitioners/defendants 2 and 3 are to be permitted to produce additional documents to the review application pending in I.A.No.3 of 2023.

10. As rightly contended by the learned counsel appearing for the first respondent, the revision petitioners have nowhere stated as to when the documents were traced out and in what way they are relevant for deciding the amendment application.

11. On considering the entire facts and circumstances, as rightly contended by the learned counsel appearing for the first respondent, this Court has no hesitation to hold that the revision petitioners, despite specific restrictions issued by this Court in common order dated 08.02.2023 passed in the civil revisions filed earlier, are abusing the process of Court. Hence, the impugned order dismissing the application



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filed under Order 7 Rule 14(3) C.P.C. cannot be found fault with.

Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

12. In the result, this Civil Revision Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed. No costs.

26.02.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The District Munsif Court,
Paramakudi.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
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and
C.M.P.(MD)No.16000 of 2023

Dated : 26.02.2024