
(2013) 06 MAD CK 0080
In the Madras High Court
Case No : C.R.P. (PD) No. 3746 of 2010

S. Jayaram

APPELLANT

Vs

B. Radhamani, V. Senthamarai and The President/Executive Officer

RESPONDENT

Date of Decision : 24-06-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 91

Citation : (2013) 06 MAD CK 0080

Hon'ble Judges : M. Duraiswamy, J

Bench : Single Bench

Advocate : C. Prakasam, for the Appellant; R. Bharath Kumar for 1st Respondent, Mr. G. Ethirajulu for 2nd Respondent and Mr. D. Venkatachalam for 3rd Respondent, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

M. Duraiswamy, J.—Aggrieved over the fair and final order passed in I.A. No. 1475 of 2009 in O.S. No. 78 of 2009 on the file of the

District Munsif Court, Tiruppur, the petitioner, who is a third party to the suit, has filed the above Civil Revision Petition. The respondents 1 and 2

are the plaintiffs and the third respondent is the defendant in the suit. The plaintiffs filed the suit in O.S. No. 78 of 2009 on the file of the District

Munsif Court, Tiruppur for declaration and permanent injunction. The petitioner filed the application in I.A. No. 1475 of 2009 under Order I, Rule

10 of the CPC to implead himself as the second defendant in the suit. The respondents 1 and 2 filed their counter and opposed the petition.

However, the third respondent, who is the sole defendant in the suit, had no objection for impleading the petitioner as the second defendant in the

suit. The trial Court after taking into consideration the case of both sides

dismissed the petition holding that the third party-petitioner is not a necessary party to the suit. Aggrieved over the same, the third party-petitioner has filed the above Civil Revision Petition.

2. Heard Mr. C. Prakasam, learned counsel appearing for the petitioner as well as Mr. R. Bharath Kumar, learned counsel appearing for the first respondent; Mr. G. Ethirajulu, learned counsel appearing for the second respondent and Mr. D. Venkatachalam, learned Government Advocate appearing for the third respondent.

3. On careful consideration of the materials available on record and the submissions made by both the counsel, it is not in dispute that earlier, the petitioner had filed Public Interest Litigation before this Court in W.P. No. 13155 of 2009 and this Court, by an order dated 15.7.2009 disposed of the Writ Petition giving liberty to the petitioner to file an application to implead himself in the present suit. However, it was brought to the notice of this Court that this Court while giving liberty further directed that any such application has to be decided only on merits.

4. According to the learned counsel appearing for the petitioner, the property in dispute is a public property and therefore, the plaintiffs and the defendant have no right to alienate the property.

5. According to the learned counsel appearing for the respondents 1 and 2, the third respondent had sold the property way back in the year 1989 and after a lapse of nearly 24 years, the petitioner is agitating all the issues. Further, according to the learned counsel, after the sale of the property in the year 1989, the property has changed hands thrice and the respondents 1 and 2 are the present owners of the suit property by virtue of sale deed in their favour.

6. The learned Government Advocate appearing on behalf of the third respondent submitted that the petitioner had not sought any relief as against the respondents to set aside the alienation made way back in the year 1989 and therefore, the petitioner is not a necessary party and the trial Court has rightly dismissed the application filed by him.

7. It is pertinent to note that though the petitioner had stated that in the interest of the public he has filed the present application to get himself impleaded, he has not produced any material before the trial Court to show his interest or the right in the suit property. That apart, he has not

contended that he represent the other villagers of the said village. The petitioner could have filed a separate suit as against the respondents seeking for appropriate relief u/s 91 of the Code of Civil Procedure, if he is really interested in the welfare of the public. He has not filed any independent suit though the sale was made as early as in the year 1989. The trial Court rightly held that the petitioner being the resident of the said village that itself will not make the petitioner necessary party to the suit and also found that he failed to produce any material to show his interest or the right in the suit property and also failed to contend that he represent the other villagers of the said village.

8. Therefore, from the above, it is clear that even in the absence of the petitioner, the suit can be decided on merits by the trial Court. There is nothing on record to show that only in the presence of the petitioner, the suit can be disposed of in the correct manner. Therefore, the trial Court has rightly dismissed the application. I find no error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. However, there shall be no order as to costs.