

Ravichandran Vs. Vijayadhas and ors

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Court : Chennai

Decided On : Nov-12-2011

Judge : G.Rajasuria, J.

Appeal No. : C.R.P(PD)(MD)No.2107 of 2011

Appellant : Ravichandran

Respondent : Vijayadhas and ors

Judgement :

1. This Civil Revision Petition is focussed by the petitioners challenging the order passed by the learned District Judge (F.T.C.No.2), Madurai dated 25.02.2011 in I.A.No.180 of 2011 in I.A.No.419 of 2009 in O.S.No.138 of 2007 in rejecting the prayer of the petitioners to effect substituted service at the last resided locality of the proposed 3rd party/19th defendant in O.S.No.138 of 2007.

2. A re'sume' of facts absolutely necessary and germane for the disposal of this Civil Revision Petition at the stage of admission itself, would run thus:

(i) The learned Counsel for the petitioners/ plaintiffs would narrate the following facts:

The petitioners filed the suit for partition. Pendente lite, they came to know that the 18th defendant alienated some properties in favour of his daughter - the 19th defendant, whereupon the 19th defendant was added as a new defendant. The

plaintiffs were given to understand that the 19th defendant was in Dubai. Steps were taken in that regard to get the summons served. Inasmuch as they felt that the summons could not directly be served on her, they resorted to substituted service. The trial Court earlier ordered for publication in the daily newspaper 'The Hindu' international edition. Subsequently it transpired that as of now, there is no international edition of 'The Hindu' having circulation in Dubai. Whereupon the plaintiffs came to understand that the Court ordered for publication in the newspaper viz., The Gulf News Daily having circulation in Dubai.

(ii) The learned Counsel for the petitioners/ plaintiffs would also submit that the plaintiffs came to understand that even that was not possible, because unless the Embassy concerned in Dubai authorises the newspaper concerned for publication, they would not publish the same.

3. In this factual matrix, according to the learned Counsel for the petitioners/plaintiffs, the publication in 'The Hindu' - the newspaper having circulation around the last known address of the 19th defendant would be sufficient.

4. I would like to at once point out that such a course suggested by the learned Counsel for the petitioners/plaintiffs is, a well nigh impossibility legally for the reason that if the whereabouts of the defendant concerned are not known, then taking into account the last known address, publication could be effected in the concerned area in any newspapers having circulation there. But, the factual scenario here is entirely different. The petitioners/plaintiffs are fully aware of the fact that the 19th defendant - the person to be served with summons, is in Dubai. In such a case, ordering publication in the local newspaper in India, would be a formal one.

5. Hence, in these circumstances, I would like to dispose of the Civil Revision Petition with the following direction: The petitioners/plaintiffs shall satisfy the trial Court even by filing a detailed affidavit, about the demand of the Gulf News Daily that there should be direction from the Embassy concerned. On such satisfaction, the trial Court shall take necessary steps by issuing necessary orders and communicate the same to the Embassy concerned, so that the Embassy will direct

the publication at the cost of the petitioners/ plaintiffs in 'The Gulf News Daily'. Over and above that, I would also mandate the trial Court to issue one set of summons to the Embassy concerned for getting it served on the 19th defendant, because according to the petitioners/plaintiffs, the 19th defendant is an Indian citizen in Dubai, in such a case, the Indian Embassy in all probabilities, might be knowing about the whereabouts of the 19th defendant and they could get the summons served on the 19th defendant. Wherefore, such a measure can also be resorted to by the trial Court at the cost of the plaintiffs. No costs.

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