

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARMAPURI

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Friday, this the 20th day of December 2024

I.A.No.9/2024
in
I.A.No.6/2024
in
O.S.No.72/2023

K.M.Inbasekaran

... Petitioner/plaintiff

/ versus /

1. M.Rajammal
2. C.Senthamarai
3. K.M.Jegadesan
4. K.M.Anbarasu

... Respondents/defendants

This petition is coming up before me on 13.12.2024 for final hearing in presence of Mr.S.Senthilnathan, Advocate for petitioner, Mr.K.Boopathy, Advocate for first respondent, Mr.T.Umeshwaran, Advocate for second respondent, Mr.D.K.Gopala Krishnan, Advocate for third respondent, Mr.R.Chandrasekaran, Advocate for fourth respondent and upon hearing both side arguments and on perusal of entire case records and having stood over for consideration till this day, this court delivered the following;

ORDER

This petition has been filed under Order 39, Rule 1 and 2 read with section 151 of CPC to pass an order of injunction thereby restraining the respondents/defendants to not to operate the marriage hall till the disposal of I.A.No.6/20214.

2. The averments in the petition in brief is as follows:

The petitioner filed suit for partition and separate possession for the suit properties and permanent injunction restraining the defendants from alienating and encumbering the suit properties till the legal partition takes place among the plaintiff and defendants. In item 18 of schedule A of the suit property there is a Marriage Hall constructed in an extent of 35 cents and for that 20 cents has been used from item 18 of schedule-A and another adjacent survey number 265/2A1 which belongs exclusively to the plaintiff, 3rd and 4th defendants vide document number 525 of 1995 and there was an understanding among late K.C.Maran, plaintiff, 3rd and 4th defendants for constructing and operating the said marriage hall and that the said marriage hall has not in function from the month of March 2019. The 3rd and 4th defendants acting behind had used 1st defendant as a tool and gave a petition seeking protection to operate the said marriage hall to Superintendent of police, Dharmapuri district and based on the said petition petitioner was summoned and enquired by the Inspector of police, Mahendramangalam police station in the month of November 2023. Petitioner had made his objection for operating the said marriage hall without getting the building license renewed as mandated under section 3 of Tamil Nadu Public Buildings (Licensing) Act, 1965. He gave a representation to the District Collector, Dharmapuri District through the Thasildar, Palacode on 10.11.2023, requesting to give directions to the respondents/ defendants to not operate the marriage hall without proper license. If any untoward incident happened due to any structural failure or non-maintenance of the said marriage

hall the public at large will be the victims and the liability will be on all the legal heirs of K.C.Maran including petitioner. That the defendants are getting unjust enrichment by operating the said marriage hall in item 18 of schedule A without any proper statutory license. Since no progress was taken by the Thasildar, Palacode, petitioner gave the same representation on 10.06.2024 to the District Collector, Dharmapuri and the Thasildar, Palacode issued summons to petitioner for enquiry on 08.07.2024, and petitioner again made objection for operating the said marriage hall without statutory license, but since there then Thasildar, Palacode was transferred the said enquiry was kept in abeyance and the 3rd and 4th defendants again let the marriage hall to rent in the month of September 2024 without proper license. That the said acts of defendants are illegal and will cause irreparable damages to the property in which the plaintiff has a right if any untoward incident happened due to renting the marriage hall without license. The petitioner has filed IA 6/24 to appoint him as a court receiver for item 18 of schedule A of the suit property, hence temporary injunction has to be granted restraining respondents from operating marriage hall till disposal of IA 6/24 .

3) The averments in the counter filed by second respondent in brief is as follows:

Item no.18 of the suit properties belongs to K.C.Maran, father of plaintiff and defendants 2 to 4. After his death, the defendants 1, 3, 4 executed a Relinquishment deed dated 30.3.2023 in favour of second respondent. So the second respondent is entitled to

5/4 share in the marriage hall. She has spent Rs.10 lakhs for maintaining the marriage hall. The plaintiff is making false allegations and preventing the public from conducting the marriage in the marriage hall. The second respondent who is entitled to 2/5 share in the suit properties is managing the marriage hall properly. After executing gift settlement deed in favour of his wife, the petitioner had no right in the properties. Hence the petition is liable to be dismissed.

4. The averments in the counter filed by third respondent and adopted by first respondent in brief is as follows:

It is assured that under no circumstances the marriage hall would be functioned without valid license and permits from every authorities concerned. The government authority would allow or permit the functioning of the marriage hall without any license. The petitioner's earlier petition I.A.6/2024 seeking for appointing him as receiver and the present petition seeking injunction for operating the marriage hall are mutually running contrary to each other. In earlier petition I.A.6/2024 there is no whisper as to any incapability including structural failure. Without prejudice to the contention otherwise it is submitted that if really the contention of the petitioner is true over his apprehension that the marriage hall would be put into operation without any valid license the forum to approach is not this civil court. For the petitioner's plea the government authorities are necessarily parties. The cause of action for the injunction relief is new/fresh, subsequent, different and alien to the alleged main and original cause

of action. This type of petition cannot be filed and sought relief against the co-owner. The petitioner has no prima facie case and possession and balance of convenience too is not in his favour. The first defendant constructed the marriage hall through huge funds garnered through loan obtained upon the guarantee of this respondent. Having come to know the huge investment of amount through loan the petitioner with ill thought and malicious intent filed this petition to inflict loss to the first and this respondent, which among the family members that too against the mother is not only improper and against moral it is illegal to. For all these reasons the petition is liable to be dismissed as ill conceived.

5. The averments in the counter filed by fourth respondent in brief is as follows:

i) Item 18 of the A schedule property, the marriage hall was constructed in the year of 2000 after proper approval given by the civic authorities and tax levied by the panchayat has also been properly paid since 2000. The license granted is required to be renewed, for which, the 4th respondent has submitted stability certificate of the building from the competent authority and paid the required fees everything, which is under process.

ii) The petitioner has filed application in I.A.No.6/2024 seeking to be appointed as receiver to the marriage hall. The 4th respondent has filed counter. He filed application seeking injunction to restrain the respondents from operating the marriage hall till

disposal of I.A.No.6/2024. It is submitted that his entitlement to be appointed as receiver itself is a question need be determined on the basic of objection raised by the 4th respondent in counter filed in I.A.No.6/2024. Under this circumstances, the petitioner has not made out a prima facie case for the relief of injunction. The petitioner filed petition alleging that the marriage hall is not suitable for running and on the other hand he is seeking to be appointed as receiver to run the marriage hall.

iii) The relief sought for in I.A.No.8/2024 is based on the materials placed in I.A.No.6/2024 in which, he has not averted as to any loss or damage to the property which, requires to be preserved or he is a suitable person to be appointed as receiver for item 18 of the 'A' schedule property or the circumstances which requires an appointment of receiver. As to suitability of I.A.No.6/2024, the 4th respondent has raised multiple reasons in his counter. In this circumstances, balance of convenience does not lie in favour of petitioner, which is a essential factor, need be considered in the event of granting relief of injunction.

6. The point for consideration:

Whether the petition is to be allowed or not?

7. Heard both side. No oral evidence have been adduced on both side. On the petitioner side Ex.P1 and Ex.P2 were marked. On the respondents side no documents were marked.

8. Point:

8.1) The petitioner alleges that respondents are running marriage hall illegally

without getting building license renewed as mandated under S.3 of Tamil Nadu Public Buildings (Licensing) Act, 1965 causing irreparable damages to property, he has filed IS 6/24 for appointing him as receiver, hence temporary injunction has to be granted restraining respondents from operating marriage hall till disposal of IA 6/24.

8.2) The respondents 2 and 3 resisted petition by contending that petitioner has no right to maintain this petition as he has executed a Gift settlement deed in favour of his wife pending the suit, the petitioner has not proved any damages and has not proved how he is a competent person to be appointed as a receiver.

8.3) The third respondent contended that he is holding 4/5 share in the marriage hall and he is managing it in proper manner and the petitioner has no right to file this petition.

8.4) The fourth respondent contended that he has taken necessary steps for renewing the license for the marriage hall, the petitioner who is alleging that the marriage hall is not suitable for running is contending that he must be appointed as a receiver, Sri Rajan Kalyana Mandabam is a partnership firm and petition is not maintainable as partnership firm has not been made party to this petition.

8.5) This is a suit for partition. Admitted facts in this case are that plaintiff, defendants 2 to 3 are sons and daughter of K.C.Maran and first defendant, and marriage hall originally belonged to K.C.Maran.

8.6) The limited scope of this petition is granting of temporary injunction

restraining respondents from operating marriage hall till disposal of IA 6/24. This court has passed orders in IA 6/24 dismissing it. So, nothing survives in this petition. Hence petitioner is not entitled to any relief in this petition. Hence point for consideration is answered against petitioner.

In the result, the petition is dismissed. Both the parties are directed to bear their own cost.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 20th day of December 2024.

Additional District Judge,
Dharmapuri.

Petitioner side Evidence: Nil

Petitioner side Exhibits:

Ex.P1	30.3.2023	Certified copy of Release deed executed by defendants 1, 3, and 4 in favour of 2nd defendant for Rajam Thirumana Mandabam.
Ex.P2		Ex.P2 is E.B service connection in the name of Maran.

Respondents Side Evidence, Exhibits: Nil.

Additional District Judge,
Dharmapuri.

Fair Order

I.A.No.9/2024 in
O.S.No.72/2023

Dated:20.12.2024.