

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2163-2165/2024  
[ @ SLP [C] NOS.19698-19700 ]

SHANTHA AND ORS. Appellant(s)

VERSUS

MEENAMBAL AND ORS. Respondent(s)

O R D E R

Leave granted.

The appellants are the in-laws of defendant No.1. A suit was filed by one of the appellants for partition and separate possession on the premise that the disputed properties were joint family properties. The suit was decreed in part. Aggrieved thereby, an appeal was filed by defendant No.1 who is none other than the sister-in-law of the appellants.

A cross objection was filed by the appellants being in Cross Objection No.80/2002 in AS No.441/2002. An application was filed on behalf of the appellant as C.M.P. No.1109/2016 to bring on record the Trust, namely, Sundarathammal Dharmachatiram and Charitable Trust as a party respondent in both the appeals. The appeals were taken up for final hearing along with the Writ Petition and the appeal filed by respondent No.3 (who is the appellant in A.S. No.441/2002) was allowed.

Consequently, cross objection filed in Cross Objection No.80/2002 was dismissed on the sole premise that the Suit properties included the properties of the public Trust sought to be impleaded and, therefore, in the absence of the said Trust being a party to the proceedings, the suit is liable to be dismissed for non-joinder of the necessary parties.

Even assuming that the said application was filed either during the course of arguments or even thereafter, the suit being one of partition and separate possession, should not have been dismissed for partial partition.

Be that as it may, we are inclined to set aside the impugned order since the High Court has not gone into the merits, but has merely held that the Trust is also entitled to be heard as a party respondent.

The impugned order is accordingly set aside to be heard afresh, which would mean hearing of A.S. No.441/2002 and cross objection No.80/2002 after deciding the petition filed in C.M.P. No.1109/2016. Hence, the matter stands remitted back to the High Court.

We request the High Court to decide the petition filed in C.M.P. No.1109/2016 by first issuing notice to the proposed respondent, namely, Sundarathammal Dharmachatiram and Charitable Trust and after

deciding the said application, the Appeal and the Cross Objection ought to be taken up to be decided.

The appeals are accordingly allowed.

No costs.

.....J.  
[M.M. SUNDRESH]

.....J.  
[S.V.N. BHATTI]

NEW DELHI;  
FEBRUARY 13, 2024.

ITEM NO.22

COURT NO.14

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.19698-19700/2017

(Arising out of impugned final judgment and order dated 02-02-2016 in AS No.441/2002 02-02-2016 in CR0 No.80/2002 02-02-2016 in CMP No.1109/2016 passed by the High Court of Judicature at Madras)

SHANTHA AND ORS.

Appellant(s)

VERSUS

MEENAMBAL AND ORS.

Respondent(s)

IA No. 43165/2017 - EXEMPTION FROM FILING O.T.

Date : 13-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Appellant(s) Mr. P.B. Suresh, Sr. Adv.  
Mr. Vipin Nair, AOR  
Mr. Arindam Ghosh, Adv.  
Mr. Karthik Jayashankar, Adv.  
Mr. Anshumaan Bahadur, Adv.  
Mr. P.B.Sashaankh, Adv.

For Respondent(s) Mr. Senthil Jagadeesan, Sr. Adv.  
Ms. Kirti Leela Ratnam, Adv.  
Ms. Mrinal Kanwar, AOR  
Mr. Sajal Jain, Adv.  
Ms. Sonakshi Malhan, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.  
Pending application stands disposed of.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR CUM PS

(POONAM VAID)  
COURT MASTER (NSH)

[SIGNED ORDER IS PLACED ON THE FILE]