

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-09-2005

CORAM :

THE HONOURABLE MR. JUSTICE A. KULASEKARAN

C.R.P. (PD) No. 1240 of 2004

and

C.M.P. No. 12114 of 2004

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T.R. Subramania Naidu ... Petitioner

Versus

Dr. Ambedkar People Liberation  
Front, Arakkonam  
rep. by its representative  
K. Manoharan  
Paneerselvam Street  
Dr. Ambedkar Street Arakkonam  
Vellore District

... Respondent

Petition under Article 227 of The Constitution of India against the order dated 06-04-2004 made in I.A. No. 680 of 2003 in O.S. No. 152 of 2003 on the file of District Munsif Court, Arakkonam, Vellore District.

For Petitioner : Mr. D. Rajendran

For Respondent : No appearance

ORDER

The defendant in O.S. No. 152 of 2003 on the file of District Munsif Court, Arakkonam, Vellore District is the revision petitioner. The respondent herein has filed the said suit for bare injunction. Pending suit, the person representing the respondent herein has filed I.A. No. 680 of 2003 under Order I Rule 8 CPC to permit him to file the suit in a representative capacity. The trial court, after hearing both sides allowed the said application, hence, the present civil revision petition.

2. By order dated 16-04-2005, this Court appointed Mrs. Shantha Kumari, learned counsel as Amicus Curiae in this matter to assist this Court to dispose of this revision petition.

3. Though the respondent was served and their name is printed in the cause list today, none represents them.

4. Mr. D. Rajendran, learned counsel appearing for the revision petitioner submits that before the trial court, the respondent herein has marked exhibits P1 to P21, but not let in any oral evidence; that all the said exhibits do not disclose that the person representing the respondent was a member of the plaintiff association or office bearer or he is holding any interest in the suit property, but the trial court ordered the said application permitting the person representing the respondent herein to prosecute the suit on behalf of the respondent, which is contrary to Order I Rule 8 CPC and prayed to set aside the order impugned in this petition.

5. Mrs. Shantha Kumari, learned Amicus Curiae appointed by this Court, on careful perusal of all the documents and also the impugned order submitted that the respondent's association is not a registered association or the person who sought permission to represent was neither a member nor an office bearer and his interest in the suit property is not shown.

6. Order I Rule 8 CPC is in the public interest so as to avoid multiplicity of litigation. The conditions necessary for filing an application under this provision is that the person, on whose behalf the suit is brought must have the same interest i.e., either the interest must be common or they must have common grievance. The object is really to facilitate the decisions of questions in which large number of persons are interested without recourse to ordinary procedure.

7. It is seen from the records that the exhibits relied on by the respondent herein do not satisfy the said conditions. If a person has not satisfied the conditions, in other words, not having any interest in the property or right to represent the body, which filed the suit, cannot be permitted to sue on behalf of others, who has a right. The trial court, though rightly discussed about the exhibits and held that the person representing the respondent has no interest, while coming to conclusion, it took a different and erroneous view that the person representing the respondent is eligible to represent, which is nothing but non-application of mind. Hence, this Court has no hesitation to set aside the order impugned in this revision petition and the same is accordingly set aside. Consequently, I.A. No. 680 of 2003 in O.S. No. 152 of 2003 on the file of District Munsif Court, Arakkonam, Vellore District is dismissed.

7. In the result, the civil revision petition is allowed.  
No costs. Consequently, connected CMP is closed.

rsh

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

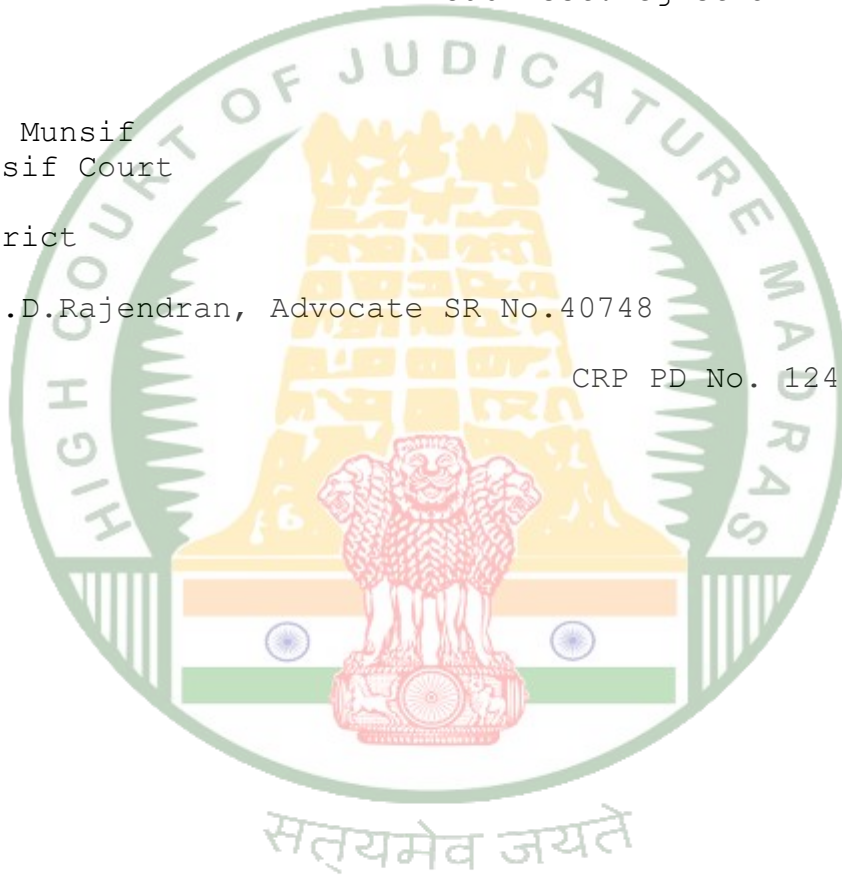
To

The District Munsif  
District Munsif Court  
Arakkonam  
Vellore District

+ 1 cc to Mr.D.Rajendran, Advocate SR No.40748

CRP PD No. 1240 of 2004

RRN (CO)  
SR/5.10.2005



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