

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.1387 of 2015

and

M.P.No.1 of 2015

Alapakkam Villagers Rep by

1.Asha Agarwal

2.P.Kasthuri

3.R.Sai Subramania Prabhu ...Petitioners/R 1/Plaintiffs

Vs.

1. Seema Modern Matriculation School
Rep by its A.O.V.J.Shivaraman ...1st Defendant/1st Respondent/
Petitioner/D1

2. The Executive Officer,
Maduravoyal Panchayat
Maduravoyal, Ambattur Tk

3. The Member Secretary, CMDA,
Egmore, Chennai

4. The Director, Director of School Education
College Road
Nungambakkam,
Chennai - 6.

...Respondents 2 to 4/Respondents 2 to 4/
Defendants 2 to 4

5. S.Peter

6. Mercyflarance

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7. Loorthu Ammal @ Arulmary

8. Rosali

9. Josephin Rosi

10.P.Roselin

11.L.B.S.Yadav

Chairman of Seema Modern Matriculation School

12.Sathyanarayana Yadav

Correspondent of Seema Modern Matriculation School

13.The Assistant Commissioner

Corporation of Chennai

Ward No.47, Zone No.11

(Maduravoyal)

...Respondents 5 to 13 / Proposed Parties

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 10.10.2014 made in I.A.No.1270 of 2013 in O.S.No.59 of 2007 on the file of the Principal District Munsif, Poonammallee.

For Petitioners : Mr.Y.Jyothish Chander

For Respondents : Mr.V.R.Kamalanathan,
for Mr.V.G.Anbarasu,
for R1.

O R D E R

The petitioner is the plaintiff in O.S.No.59 of 2007 on the file of the Principal District Munsif Court, Poonamallee. The said suit was filed in a representative capacity.

2. The prayer in the said suit is stated in paragraph 13 of the plaint and the same is usefully extracted here under:

"13. The Plaintiff value the suit for the purpose of Court fee and jurisdiction:-

(i) For the relief of declaration of the public road 24 Ft wide x 800 ft. incapable of valuation and valued at

Rs.1,000.00 and pay a court fee of Rs.75.50/- as under section 25(d) of the Tamil Nadu Court fee and suit valuation Act, 1955.

(ii) For a Mandatory injunction against the first defendant to pull down the wall, structure, iron gate in the public road, namely the 20th St, Ashtalakshmi Nagar, Alapakkam valued at Rs.1,000.00/- and pay a court fee of Rs.75.50 as under Sec.27(d) of the Court fee Act.

(iii) For a permanent injunction against the first defendant restraining them from putting up any construction in the 20th St, Ashtalakshmi Nagar, Alapakkam valued at Rs.1,000/- and pay a Court fee of Rs.75.50/- under Section 27(c) of the Tamil Nadu Court fee and suit valuation Act, 1955."

3. The first defendant is a school and the allegation is that the first defendant/School had encroached upon a public road and hence, the suit.

4. The first defendant had filed an application in I.A.No.1270 of 2013 in O.S.No.59 of 2007 proposing to implead the respondents 5 to 13. According to the 1st respondent, the 1st respondent/School is run by a Trust and the trustees of the School are necessary parties. It is also the case of the 1st respondent that the power agent of the trustees are also necessary parties.

5. It is further stated by the 1st respondent that after filing of the suit, the property has now come under the jurisdiction of Corporation of Chennai. Hence, the Assistant Commissioner, Corporation of Chennai has to be impleaded. However, the same was resisted by the learned counsel for the revision petitioners who are the plaintiffs in the suit.

6. The Trial Court by an order dated 10.10.2014 allowed the application filed by the 1st defendant in I.A.No.1270 of 2013 in O.S.No.59 of 2007 and thereby the defendants 5 to 13 are impleaded as parties. Against the aforesaid order, the present Civil Revision Petition has been preferred.

7. Heard both sides.

8. The learned counsel appearing for the revision petitioner would submit that even though the Assistant Commissioner, Corporation of Chennai can be impleaded, there is no reason to implead the trustees and the power agents.

9. The learned counsel for the respondents strenuously contended that as per Order 1 Rule 10(2) CPC, the necessary party has to be impleaded in the interest of justice and hence, according to him there is no infirmity in the order passed by the Trial Court.

10. I have considered the submissions made by both sides.

11. Since the Administrative officer of the defendant School is representing the School, I am of the view that the trustees and their power agents are not the necessary parties. If the first defendant wants to get represented through the Chairman of the Trust or the Correspondent in the place of the Administrative Officer, the first respondent could file an appropriate application in this regard. But, there is no need to implead the trustees and the power agents.

12. Hence, the order of the Principal District Munsif, Poonammallee, dated 10.10.2014 made in I.A.No.1270 of 2013 in O.S.No.59 of 2007 is modified to the extent by permitting the 1st defendant to implead The Assistant Commissioner, Corporation of Chennai, Ward No.47, Zone No.11 (Maduravoyal) alone as the 5th defendant.

13. In view of the impleadment of the parties, the plaintiffs are at liberty to make necessary amendment and the defendants are at liberty to file their written statements accordingly. Further, a direction is issued to the Trial Court to dispose of the suit by passing final judgment and decree within a period of nine months from the date of receipt of a copy of this order.

14. The Civil Revision Petition is disposed of in the above terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

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To

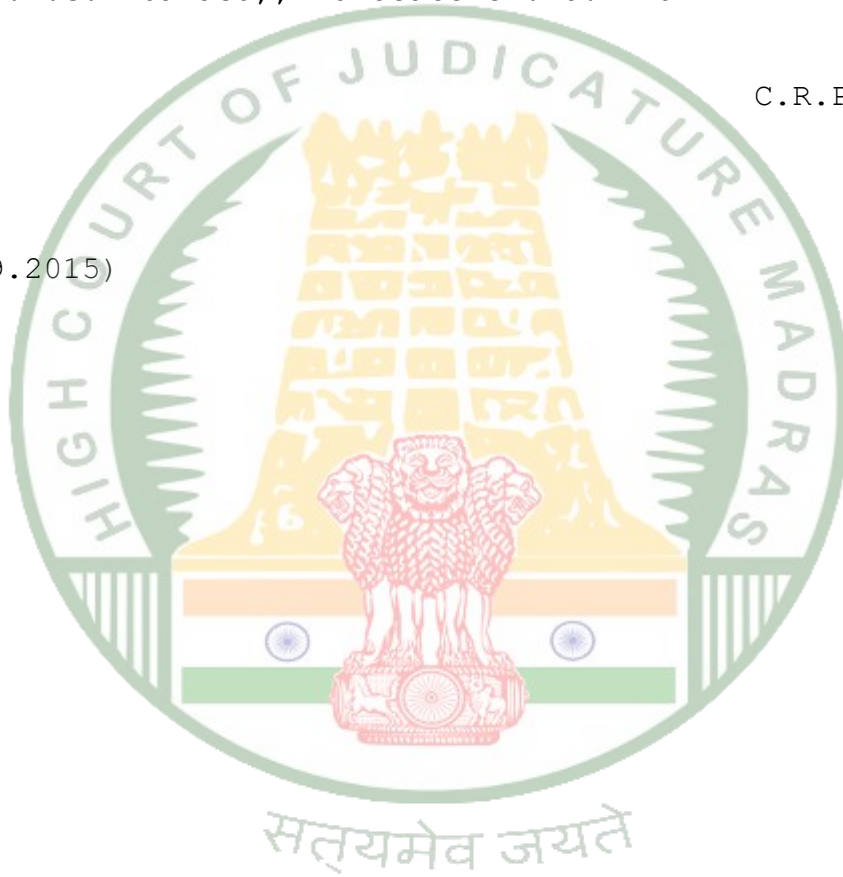
The Prinicpal District Munsif,
Poonammallee.

1 CC to Mr.Y.Jyothish Chander, Advocate SR.No. 41807

1 CC to Mr.V.G.Anbarasu,, Advocate SR.No. 41921

C.R.P.No.1387 of 2015

JSV (CO)
PSI (02.09.2015)



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