

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(PD)No.3077 of 2015 &
M.P.No.1 of 2015

M.A.Anbu

... Petitioner

v.

1.C.Manoharan

2.Usha Devi Chandran

3.P.C.Shanthi

4.The Corporation of Chennai,
Rep. By its Commissioner,
Rippon Building,
Chennai – 600 003.

5.The Executive Engineer,
Zone VII,
Corporation of Chennai,
Ambattur,
Chennai – 600 058.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, agaisnt the order dated 19.06.2015 made in I.A.No.855 of 2014 in O.S.No.289 of 2010 on the file of District Munsif Court, Ambattur.

For Petitioner : Mr.V.Anand

ORDER

Challenging the fair and final order passed in I.A.No.855 of 2014 in O.S.No.289 of 2010 on the file of District Munsif Court, Ambattur, the third party has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.289 of 2010 for permanent injunction. The defendants are contesting the suit. The defendants 2 and 3 remained ex-parte and the 1st defendant had died. Thereafter, the plaintiff took out an application in I.A.No.855 of 2014 to implead the revision petitioner as defendant in the suit.

3. In the affidavit filed in support of the application, the plaintiff has stated that revision petitioner is the proper and necessary party and that in the writ petition filed by him in W.P.No.24770 of 2010 before this court, challenging the validity of the planning permission accorded by the Ambattur Municipality, which has been applied and secured in the name of a dead person, a Division Bench of this court by order dated 2.12.2013 observed that since the civil suits are pending right from 2006, the Division Bench directed the District Munsif Court, Ambattur to take up both the civil suits viz., O.S.Nos. 355 of 2006 and 289 of 2010 for trial and dispose of the same as expeditiously as possible. Thereafter, the plaintiff filed an application seeking for amendment of the plaint. During the pendency of the proceedings, the defendants 2 and 3 executed a power of attorney in favour

of one V.Sowrirajan on 10.01.2012 and the said Sowrirajan executed a sale deed in favour of the revision petitioner on 8.2.2012. Thereafter, the revision petitioner has filed a civil suit in O.S.No.355 of 2006 before the District Munsif Court, Ambattur, which was subsequently dismissed on 10.12.2013.

4. The Division Bench of this court while disposing of the writ petition, observed as follows:-

"3. When the writ petition was taken up for consideration, Mr.Parthasarathy, learned senior counsel appearing for the second respondent, on instructions, submitted that civil suits are pending with respect to the very same property in O.S.Nos. 355 of 2006 and 289 of 2010 on the file of District Munsif, Ambattur. The learned senior counsel further submitted that no construction would be made by the second respondent on the strength of the impugned planning permission till the disposal of the above referred civil suits.

4. Since the second respondent has given an undertaking that no construction would be made till the disposal of the civil suits by the concerned Court, no further adjudication is required in the writ petition."

5. The revision petitioner was the 2nd respondent in the said writ petition. The Division Bench of this court observed that no construction would be made by the second respondent, who is the revision petitioner herein, on the strength of the impugned planning permission till the disposal

of the civil suits.

6. In view of the observation made by the Division Bench of this court, the Trial Court, after taking into consideration the case of both the parties, allowed the application.

7. I am of the considered view that the revision petitioner is the proper and necessary party to the proceedings.

8. In view of the same, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

31.07.2015

Rj

To

The District Munsif Court,
Ambattur.

M. DURAISWAMY,J.,

Rj

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