

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.636 of 2014
and M.P.No.1 of 2014

G.Selvaraj
S/o.Govindasamy
Pullarvarpalli Village,
Vaniyambadi,
Vellore District.

... Petitioner

Vs.

1.Narayaniammal
Pullavarpalli Village,
Alangayam,
Vaniyambadi Taluk,
Vellore District.

2.The District Collector,
Collectorate Office,
Sathuvachari,
Vellore - 9.

3.The Tahsildar,
Taluk Office,
Vaniyambadi.

4.The Village Administrative Officer,
Alangayam, Vellore District.

... Respondents

Civil Revision Petition filed under Article 227 of the Consitution of India against I.A.No.383 of 2013 in O.S.No.171 of 2010 on the file of learned Additional District Munsif, Vaniyambadi, Vellore District dated 29.11.2013.

For Petitioner : Mr.SU.Srinivasan

For Respondents : Mr.P.Selvaraj [R1]
Notice served [R2 to R4]

ORDER

Challenging the fair and decreetal passed in I.A.No.383 of 2013 in O.S.No.171 of 2010 on the file of the Additional District Munsif Court, Vaniyambadi, Vellore District, the proposed party has filed the above Civil Revision Petition.

2. The plaintiff has filed the suit in O.S.No.171 of 2010 to declare her title and for mandatory injunction directing the defendants to issue patta in her favour. In the said suit, the revision petitioner filed an application in I.A.No.383 of 2013 to implead himself as the fourth defendant stating that he is a proper and necessary party for proper adjudication of the matter. The application was contested by the plaintiff stating that the proposed party is not a proper and necessary party. The trial Court, taking into consideration the case of both parties, dismissed the application finding that the revision petitioner is not a proper and necessary party.

3. On a perusal of the materials available on record, it could be seen that the revision petitioner filed another suit in O.S.No.122 of 2012 on the file of the Principal District Munsif Court, Vaniyambadi, making the plaintiff in O.S.No.171 of 2010 as the first defendant. Admittedly both the suits are in respect of the same suit property.

4. The learned counsel appearing for the petitioner submitted that

the patta stands in the name of the revision petitioner and therefore, he is a proper and necessary party in O.S.No.171 of 2010. The learned counsel also produced a xerox copy of the patta to show that the patta stands in the name of the revision petitioner.

5. When the plaintiff in O.S.No.171 of 2010 has filed the suit for mandatory injunction directing the defendants to execute and to issue patta in her favour and when the patta stands in the name of the revision petitioner, I am of the considered view that patta cannot be issued to the plaintiff without making the revision petitioner as a party in the suit. Patta cannot be issued behind the back of the revision petitioner. That apart, in the suit filed by the revision petitioner, he has made the plaintiff in O.S.No.171 of 2010 as the first defendant. It is also brought to the notice of this Court that the plaintiff obtained a decree for declaration in O.S.No.30 of 1999 on the file of District Munsif Court, Vaniyambadi, as against the father of the revision petitioner.

6. Taking into consideration all these aspects, I am of the considered view that the revision petitioner is a proper and necessary party for proper adjudication of the suit in O.S.No.171 of 2010. Therefore, the revision petitioner is impleaded as the fourth defendant in O.S.No.171 of 2010. The fair and decretal order passed in I.A.No.383 of 2013 in O.S.No.171 of 2010

on the file of the Additional District Munsif Court, Vaniyambadi, is set aside and the Civil Revision Petition is allowed.

7. Since the suit is pending from 2010, I direct the District Munsif, Vaniyambadi, to dispose of the suit in O.S.No.171 of 2010, on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

02.07.2015

Index : No
Internet : Yes
gm

To

The Additional District Munsif,
Vaniyambadi.

M.DURAIWAMY,J.

gm

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