

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2015

CORAM

THE HONOURABLE MR. JUSTICE **D.HARIPARANTHAMAN**

C.R.P.(PD)No.3625 of 2015 and
M.P.No.1 of 2015

G.Gnanavel

... Petitioner

vs.

S.Ganesan [died]

1.S.S.Kumaran
2.R.Sethuraman

3.The Junior Engineer, TNEB, O & M
Kodiakkal Village and Post,
Walaja Taluk, Vellore District.

4.The Assistant Divisional Engineer,
TNEB, Melvenkatapuram Village and Post,
Walaja Taluk and District,
Vellore District.

5.The Superintending Engineer,
Vellore Electricity Distribution Circle,
Gandhi Nagar, Vellore.

6.G.Ranganathan
7.G.Nandhakumar
8.G.Janaki

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree dated 12.01.2015 made in I.A.No.45 of 2014 in O.S.No.65 of 2014 on the file of Sub-Court, Arakkonam.

For Petitioner : Mr.A.Gouthaman

ORDER

The second plaintiff in O.S.No.65 of 2014 on the file of Sub-Court,

Arakkonam is the revision petitioner herein. It is a partition suit.

2. The second respondent herein, is a third party, who purchased a portion of the property involved in the partition suit. He also put up a construction and electricity connection was also obtained.

3. The revision petitioner, as well as other plaintiffs filed I.A.No.45 of 2014 in O.S.No.65 of 2014 under Order 1 Rule 10(2) of C.P.C., to implead the Junior Engineer, TNEB, the Assistant Divisional Engineer, TNEB and the Superintending Engineer, Vellore Electricity Distribution Circle, as defendants. The Trial Court passed an order dated 12.01.2015 rejecting the said application. The revision petition is against the said order dated 12.01.2015.

4. Heard the learned counsel for the petitioner.

5. The prayer in the suit in O.S.No.65 of 2014 is as follows:-

"10. The plaintiff therefore pray that this Hon'ble Court may be pleased to pass a preliminary decree and judgment in favour of the plaintiffs.

(a) Directing the defendants 1 and 2 to divide the 1st and 4th items of the suit properties in the 10 equal shares and directing the 1st defendant to divide the 2nd item and 3rd item of the suit properties in to 5 equal shares and to allot four such divided shares to the plaintiff in the 1st and 4th item and 2nd and 3rd items of the suit properties respectively and to give separate possession of the same, if necessary by appointing an Advocate Commissioner to effect partition of the same."

6. Taking into account the prayer made by the petitioner and other plaintiffs, the Trial Court rejected the said application in I.A.No.45 of 2014 in O.S.No.65 of 2014 . The Trial Court held that the revision petitioner and other plaintiffs did not seek for possession and mandatory injunction. In any event, supply of electricity would not confer any title to the second respondent.

7. I am of the view that the proposed respondents are not necessary parties. The whole effort of the petitioner and other plaintiffs is only to disconnect electricity connection obtained by the second respondent. Even if a person does not have a title over the property in question, he could have a right to obtain electricity connection for the dwelling house. In any event, electricity connection to the house put up by the second respondent herein would not in any way cause prejudice to the plaintiffs, particularly, when there is no prayer for mandatory injunction to remove the construction. I do not find any infirmity in the order passed by the Trial Court.

8. The learned counsel for the petitioner placed reliance on the following judgments in relation to impleadment of party:-

i) **Joseph Joys v. Jesu Jebalamai and others [2014-4 L.W.302]**

ii) **V.L.Dhandapani v. Revathy Ramachandran and others
[2014-3-L.W.769]**

iii) **Beebee John v. Sheik Hussain and others [(2000) 3 MLJ 739]**

iv) **P.Gurusamy v. Shriram Transport Finance Limited, rep. by its
Managing Director, G.Rajarathinam and others [(2014) 4 MLJ 351]**

D.HARIPARANTHAMAN,J.,

svki

9. I have perused the judgments produced by the learned counsel for the petitioner. I am of the view that the impleadment of a party cannot be decided in isolation and the same has to be looked in to in the facts and circumstances of each case. In the case on hand, the Trial Court thought fit that Electricity Board was not a necessary party to adjudicate the rights of the parties. The judgments relied on by the petitioner does not render any assistance to him.

10. For all the foregoing reasons, the Civil Revision Petition fails and accordingly, the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.09.2015

Index : Yes/No

svki

To

The Sub-Court, Arakkonam

C.R.P.(PD)No.3625 of 2015