

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.3917 of 2015

and

M.P. No.1 of 2015

K.Mahadevan

.. Petitioner/Defendant

Vs.

1.Raja Annamalai Chettiyar Trust
rep by its Hereditary Trustees,
M.A.M.Ramasamy,
S/o.M.a.Muthiah Chettiyar
Chettinadu house,
Raja Annamalaipuram,
Chennai – 600 028.

.. 1st Respondent/Plaintiff

2.Manali Lakshmana Mudaliar
Specific Endowment by its Hereditary Trustees,
R.Srinivasan
s/o.Ramakrishnan
No.21/22, Vardha Muthiappan Street,
Chennai-1.

.. 2nd Respondent/
Proposed 2nd Defendant

Prayer:- This Civil Revision Petition is filed under Article 227 of
Constitution of India, against the fair and decreetal order dated

12.08.2015 made in I.A.No.389 of 2014 in O.S.No.120 of 2010 on the file of the Additional District Munsif Court, Chidambaram.

For Petitioner : Mr.M.Prabakar

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 12.08.2015 made in I.A.No.389 of 2014 in O.S.No.120 of 2010 on the file of the Additional District Munsif Court, Chidambaram.

2.The first respondent herein as a plaintiff filed a suit in O.S.No.120 of 2010 for ejectment of the defendant and for recovery of possession of the suit 'B' schedule property, rent arrears and future mesne profits and also for permanent injunction restraining the defendant from inducting third parties or sub-tenants in possession of the 'B' schedule property and for permanent injunction restraining the defendant from removing, demolishing or altering the existing superstructure in the suit 'B' schedule property and also from putting up any new construction in the suit 'B' schedule property. The revision petitioner/defendant filed a detailed

written statement and contesting the same. He has also filed an application in I.A.No.389 of 2014 to implead the second respondent herein as a party to the suit stating that he entered into a lease agreement with the second respondent in respect of the property and that he is a proper and necessary party for adjudication. The trial Court dismissed the application, against which, the present revision petition is preferred by the defendant.

3.Learned counsel for the revision petitioner submitted that the first respondent/plaintiff is not the owner of the land. The revision petitioner is a lessee under the second respondent, who constructed a building, wherein the revision petitioner is in occupation and he entered into a lease agreement with the second respondent only on 01.06.2007. So the second respondent is a necessary party to the suit proceedings. That factum was not considered by the trial Court. Hence, he prayed for setting aside the impugned order passed by the trial Court.

4.Heard the learned counsel for the revision petitioner and perused the typed set of papers. Notice to the respondents is dispensed with.

5.The revision petitioner is the tenant under the first respondent/plaintiff even prior to 2007. Only during June 2007, he entered into a lease agreement with the second respondent. It is an admitted fact that the building, in which the revision petitioner is in occupation, was constructed by the first respondent. Even though notice has been ordered in the application, the second respondent has not appeared before the trial Court.

6.It is pertinent to note that the revision petitioner has raised the same plea in I.A.No.189 of 2010 and the same has been negatived. Challenging the order passed in I.A.No.189 of 2010, the revision petitioner has preferred C.R.P.(PD) No.4176 of 2011 before this Court. This Court by an order dated 17.04.2014 directed the revision petitioner to furnish security for the amount of rent arrears viz., Rs.51,840/-. Now the revision petitioner has come forward with the application for impleading the second respondent as party to the suit in the second round of litigation. Admittedly, the revision petitioner is in occupation of the property much prior to 01.06.2007. Whether the revision petitioner is a tenant under the first respondent or not to be decided only at the time of trial. Under such circumstances, the second respondent is not a proper and

necessary party to the suit. In my opinion, the trial Court considered all the aspects in proper perspective and rightly dismissed the application. Hence, I do not find any merits in this revision petition and therefore, it is hereby dismissed.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

03.11.2015

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To
The Additional District Munsif Court, Chidambaram.

R.MALA,J.

Kj

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