

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.4146 of 2015
and
M.P.No.1 of 2015

S.Vidhya ...Petitioner/1st Respondent/Plaintiff

Vs.

1. Ganesan
S/o.Krishnan ...1st Respondent/3rd Party Petitioner/
Proposed 2nd Defendant
2. M/s.State Bank of India
Rep by its Manager
Chidambaram Branch
Cuddalore District. ...2nd Respondent/2nd Respondent/
1st Defendant
- 3.Bapu ...3rd Respondent/3rd Respondent/
Proposed 3rd Defendant

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 27.07.2015 made in I.A.No.57 of 2013 in O.S.No.37 of 2010 on the file of the Subordinate Judge, Chidambaram, Cuddalore District.

For Petitioner : Mr.B.Ramesh Babu

ORDER

The revision petitioner is the plaintiff in O.S.No.37 of 2010 on the file of the Subordinate Judge, Chidambaram, Cuddalore District and the 2nd respondent herein is the sole defendant in the suit.

2. The said suit was filed for mandatory injunction directing the defendant to receive the loan amount due under the loan account under 30339742275 dated 03.03.2008 from the plaintiff, to give discharge of the debt and to return the documents of title deposited by borrower Ganesan to the plaintiff and for costs.

3. The said Ganesan, who was referred to in the prayer in O.S.No.37 of 2010 filed an application in I.A.No.57 of 2013 to implead him as well as one Babu as defendants in the suit. The Trial Court by an order dated 27.07.2015 allowed the said application in I.A.No.57 of 2013 in O.S.No.37 of 2010 and aggrieved against the same, the present Civil Revision Petition has been preferred.

4. Heard the learned counsel appearing for the petitioner.

5. In my considered view, there is no infirmity in the order passed by the Trial court, particularly for the reasons stated in paragraph 8 of the order. Furthermore, the prayer in the suit itself refers to about the said Ganesan who has filed the application in I.A.No.57 of 2013. It would be appropriate to incorporate paragraph 8 of the order passed by the Trial Court.

"8. This petition filed by the third party to add him and one Babu as a party to the proceedings as 2nd and 3rd defendants in the suit. The suit was originally filed by the 1st respondent Vidhya against the State Bank of India, Chidambaram to return the original title deeds deposited by the present petitioner received a loan from State Bank of India by depositing the title deeds into the bank. Subsequently, the property was sold to one Babu and the said sale was said to be executed by the present petitioner under coercion and intimidation. There is a separate criminal proceedings pending with regard to the sale of the property by the present petitioner to the said Babu. The same property was again sold by the said Babu to the present Plaintiff Vidhya and the 1st respondent Vidhaya who is the plaintiff of this suit filed the suit against the defendant/Bank to return the original documents deposited by the petitioner from the Bank and she is ready to clear the amounts borrowed by the present petitioner. At this juncture, it has to be seen, whether the present petitioner and Babu are necessary

parties to the suit or not?. The whole story of the case had made it very clear that the property originally belongs to the petitioner and it is the case that the petitioner had not sold the property to Babu but the said Babu had got it, by coercion and intimidation. The said Babu who is a vendor of the plaintiff had not handed over the parental sale deeds and title deeds to the plaintiff. So for the relief claimed by the plaintiff, the said two parties the present petitioner and Babu are necessary parties to the suit. Only if they are added this Court can come to a final decision. Examination of the petitioner as a witness is not sufficient to conclude the trial on the facts of the case. Hence, this Court deems it fit and proper to allow this petition to add Ganesan and Babu as the 2nd and 3rd defendants in the suit and this adding of additional of parties will not cause prejudice to the plaintiff and defendant and it will not alter the nature of the case filed by the plaintiff. Hence, this petition may be allowed without costs."

6. In view of the reasoning given by the Trial Court, I am not inclined to interfere with the order passed the Trial Court. Accordingly, the Civil Revision Petition fails and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

The Subordinate Judge,
Chidambaram, Cuddalore District.

C.R.P.No.4146 of 2015

GR(CO)

PSI (24.11.2015)