

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.4448 of 2015

and

M.P. No.1 of 2015

Dhanapal

.. Petitioner/3rd Party

Vs.

1.R.Meena

.. 1st Respondent/Plaintiff

2.Tamil Nadu Generation of Electricity
cum Distribution Corporation (Supervision)
Rep. by its Executive Engineer
Salem Division.

3.Tamil Nadu Generation of Electricity cum
Distribution Corporation (Southern Division)
Rep. by its Divisional Engineer
Annadhanapatti, Salem.

4.Tamil Nadu Generation of Electricity cum
Distribution Corporation, Rep. by its
Junior Engineer
(Production and Maintenance)
Mallur.

.. Respondents 2 to 4/Defendants 1 to 3

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

04.06.2015 in I.A.No.141 of 2015 in O.S.No.43 of 2014 on the file of the District Munsif Court, Rasipuram, Salem District.

For Petitioner :Mr.R.Chavan

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 04.06.2015 in I.A.No.141 of 2015 in O.S.No.43 of 2014 on the file of the District Munsif Court, Rasipuram, Salem District.

2.At the time of admission, argument of the learned counsel for the revision petitioner is heard in length.

3.The first respondent herein as a plaintiff filed a suit in O.S.No.43 of 2014 for restoration of the electricity service connection against E.B. Authorities. The defendants/respondents 2 to 4 herein have filed written statement and contesting the suit. During pendency of the suit, the revision petitioner herein has come forward with an application in I.A.No.141 of 2015 under Order 1 Rule 10(2) C.P.C., for impleading himself as a party to that

suit stating that he has filed a suit in O.S.No.93 of 2013 for injunction and obtained an injunction, against which, the respondents herein preferred an appeal in A.S.No.21 of 2014 and the same is pending. The trial Court after considering the arguments advanced by both sides, dismissed the application, against which, the present revision petition has been preferred by the revision petitioner.

4.Learned counsel for the revision petitioner/3rd party submits that the revision petitioner herein is in possession and enjoyment of the suit property. But the present suit has been filed without mentioning the previous suit filed by him and without impleading him as a party to the present suit. So the presence of the revision petitioner is necessary for proper adjudication. He further submits that the revision petitioner has filed a judgment in O.S.No.93 of 2013 as Ex.P1, reply made by the TNEB, Mallur office, dated 05.01.2015 as Ex.P2 and memorandum of appeal grounds filed by the first respondent as Ex.P3, but the same has not been considered by the trial Court. Hence, he prayed for allowing the revision petition.

5. On perusal of the typed set of papers, it reveals that the first respondent herein as a plaintiff filed a suit in O.S.No.43 of 2014 for injunction directing the respondents 2 to 4/defendants to restore the electricity service connection, which was disconnected during pendency of the suit in O.S.No.93 of 2013. But no relief has been sought for by the first respondent as against the present revision petitioner. In O.S.No.43 of 2014, written statement has been filed, P.W.1 and P.W.2 were examined. When the matter was posted for defendants' side evidence, the present application has been filed by the revision petitioner. Furthermore, since A.S.No.21 of 2014 is pending before the trial Court, that Court alone has to decide as to whether the proposed party is in possession of the suit property or the first respondent/plaintiff is in possession of the suit property and whether she is entitled to injunction. Under such circumstances, the presence of revision petitioner is not necessary for the issue involved in the present suit. The trial Court has considered all the aspects in proper perspective manner and came to the correct conclusion, therefore, the order passed by the trial Court does not suffer any infirmity or illegality and it is hereby confirmed. The civil revision petition deserves to be dismissed and

it is hereby dismissed.

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

27.11.2015

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Index:Yes/No

Internet:Yes/No

To

The District Munsif Court, Rasipuram, Salem District.

R.MALA,J.

Kj

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