

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) NO.675 OF 2015
AND M.P.NO.1 OF 2015

1.Pattammal
2.S.Dhakshinamoorthy ... Petitioners

Vs.

1.Ashok Kumar
2.Karunadevi
3.Nagarajan
4.Shanthakumari

5.The Commissioner
Chidambaram Municipality
Chidambaram. ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 16.12.2014 passed in I.A.No.200 of 2014 in O.S.No.195 of 2013 by the learned Principal District Munsif, Chidambaram in dismissing the application filed under Order 1 Rule 10(2) C.P.C to implead the Commissioner, Chidambaram Municipality fifth defendant to the suit.

For Petitioners : Mr.R.Sagadevan
For Respondents 3&4: Mr.A.Muthukumar

ORDER

This Civil Revision Petition is directed against the order dated 16.12.2014 passed in I.A.No.200 of 2014 in O.S.No.195 of 2013 by the learned Principal District Munsif, Chidambaram.

2.The petitioners are the plaintiffs in O.S.No.195 of 2013. They filed the suit against the respondents for permanent injunction restraining the defendants, their men, agents and persons claiming right under them, from in any manner evicting without due process of law. The case of the plaintiffs is that they are in occupation of the suit property and the defendants had attempted to dispossess them. The defendants filed their written statement disputing the possession of the plaintiffs in the suit property and also contended that Chidambaram Municipality had issued notice for demolishing the old structure in the suit property.

3.The plaintiffs filed an application in I.A.No.200 of 2014 to implead Chidambaram Municipality as fifth defendant in the suit, contending that the defendants in their written statement have stated that the Municipality had issued notice under Sections 218 and 344 of the District Municipalities Act for demolishing the building. The application was resisted by the defendants. The Trial Court dismissed the application on 16.12.2014 holding that

Chidambaram Municipality is neither necessary nor proper party to the suit. Aggrieved by the same, the present Civil Revision Petition is filed.

4. Heard Mr.R.Sagadevan, learned counsel for the petitioners and Mr.A.Muthukumar, learned counsel for the respondents 3 and 4.

5. The learned counsel for the petitioners submitted that the plaintiffs are in occupation of the suit property, but the defendants are attempted to interfere with their possession. The learned counsel further submitted that in the written statement, the defendants have stated that Chidambaram Municipality had issued a notice for demolishing the building and therefore, the petitioners filed the application. It is further submitted that the defendants have to file a suit for recovery of possession and instead they are adopting illegal method for dispossessing the plaintiffs.

6. Per contra, learned counsel for the respondents submitted that the plaintiffs are not in possession and enjoyment of the suit property and they have occupied a road margin and the Trial Court has rightly dismissed the application for impleading the Chidambaram Municipality.

7. The petitioners have filed the application only on the basis of the

averments contained in the written statement. The learned counsel for the petitioner submitted that the plaintiffs obtained information under Right to Information Act stating that the Chidambaram Municipality has not issued notice under Section 218 of the District Municipalities Act. The Trial Court has rightly rejected the application holding that the proposed party is not a necessary party and there is no cause of action for impleading the proposed party. I do not find any illegality or infirmity in the order impugned in this Civil Revision Petition.

8. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.02.2015

Index : Yes/No
Internet : Yes/No
TK

To

The Principal District Munsif
Chidambaram.

K.KALYANASUNDARAM, J.
TK

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