

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.R.P.NO.760 of 2015

and

M.P.No.1 of 2015

S.Murugesan

... Petitioner

Vs.

1. Ramasamy

2. Sumathi

3. The President
Morur West Panchayat,
Vengipalayam Post,
Sankari Taluk, Salem District.

4. The Block Development Officer,
Sankari.
Sankari District.

... Respondents

Prayer: Civil Revision Petition filed under Section 227 of Constitution of India, to set aside the fair and decretal order dated 18.12.2014 made in I.A.No.1564 of 2012 in O.S.No.8 of 2011 on the file of the learned District Munsif Court, Sankari by allowing this civil revision petition.

For Petitioner : Mr.N.Manoharan

For Respondents : -

JUDGMENT

The third party has come before this Court, challenging the order of dismissal refusing to implead the petitioner as a party in the suit filed by the respondents 1 & 2/plaintiffs against the respondents 3 and 4/defendants.

2. The original suit was filed by the respondents 1 & 2/plaintiffs against the respondents 3 and 4/defendants seeking permanent injunction restraining the respondents 3 and 4/defendants, their men and subordinate from in any way in any manner forming thar road in the suit property. When the suit is pending, the petitioner herein filed an impleading application making the very same allegation stating that the respondents 1 and 2/plaintiffs are having right over the suit property and therefore the respondents 3 and 4/defendants should not prevent them to use the cart track. The said application was dismissed on contest. The said order is being challenged before this Court.

3. Heard the learned counsel appearing for the petitioner.

4. It is seen that originally the suit was filed by the respondents 1 and 2 against the respondents 3 and 4. According to the first and second respondents, respondents 3 and 4 attempted to lay a thar road in the property belonging to the them. In the said suit, the present application has been filed to implead the petitioner as party. To put it other words the petitioner only supports the case of the respondents 1 and 2/plaintiffs stating that the suit property belongs only to the respondents 1 and 2. Further, the petitioner already filed O.S.No.250 of 2011 against one Chinnammal in respect of the same property and the same is pending. When the first and second respondents have filed the present suit and sought for injunction only as against the respondents 3 and 4, there is no occasion for the petitioner to implead himself in the suit filed by the first and second respondents, as the petitioner already filed O.S.No.250 of 2011 against one Chinnammal and the third respondent. When the first and second respondents already sought for an order only as against the respondent 3 and 4, the petitioner has no right to get implead himself as party, as he is not necessary party. Moreover, it is the suit filed by the first and second respondents and they have got right to decide who has to be impleaded as party and they have made respondents 3 and 4 as parties and they have not made the petitioner as a party. Moreover, no document has been filed by the petitioner to show that he has got right over the property.

5. Taking into consideration all those facts only, the trial Court rightly dismissed the impleading petition filed by the petitioner. If anybody wants to get impleaded in a suit between third parties in respect of the property, it is mandatory on the part of the petitioner, who approached the Court, prima facie to establish that he has got some connection with the property. In the absence of

the same, the impleading petition is not sustainable. There is no perversity or illegality in the order passed by the trial Court. Hence, this civil revision petition is dismissed. No costs. Consequently, connected M.P. is closed. Taking into consideration, the suit has filed in the year 2012, it is appropriate to direct the trial Court to dispose of the suit on or before 31.07.2015.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif,
Sankari.
2. The President,
Morur West Panchayat,
Vengipalayam Post,
Sankari Taluk, Salem District.
3. The Block Development Officer,
Sankari, Salem District.

+lcc to M/s.N.Manoharan, Advocate, S.R.No.12848

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PPA (CO)
CA (24/03/2015)

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