

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) No.1733 of 2006
and M.P.No.1 of 2006

Minor Sadasivam ... Petitioner/Plaintiff/1st Respondent
Represented by his father and
natural guardian Sabapathy

Vs.

1. Ramasundaram ... Respondent / 3rd Party
2. Vaidegi Ammal
3. Balasubramaniam Pillai ... Respondents/Defendants/
Respondents 2&3

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the order and decretal order in I.A.No.172 of 2006 in O.S.No.400 of 2005 on the file of the District Munsif Court, Panruti, dated 09.08.2006.

For Petitioner : Mr.V.Raghavachari
For Respondent : Mr.K.Moorthy for R1
R2 - Not ready
R3 - No appearance

O R D E R

This revision is directed against the order passed by District Munsif, Panruti in I.A.No.172 of 2006 in O.S. No.400 of 2005.

2. The petitioner had instituted a suit against the respondents 2 and 3 for declaration and injunction. The case of the plaintiff is that he purchased the property from the defendants 1 and 2 by virtue of a registered sale deed dated 04.07.2005 and he has been in possession and enjoyment of the property. The first respondent filed an application in I.A.No.172 of 2006 under Order 1 Rule 10 of CPC to implead him as defendant in the suit. In the affidavit filed in support of the petition, the first respondent has alleged that he is a lessee under the defendants 1 and 2 and he is in possession of the property. The first respondent has not given any details about the lease. The application was resisted by the petitioner and the defendants in the suit stating that he is not in

possession as a lessee in the suit property. Despite objections, the trial court has allowed the applications. Aggrieved by the order, the present revision is filed.

3. Mr.V.Raghavachari, learned counsel for the petitioner submitted that the affidavit of the first respondent is bereft of any particulars, that at the time of hearing, he produced some documents and on that basis, the trial court has allowed the application. The learned counsel further submitted that the defendants 1 and 2 have also disputed the claim of the first respondent. Therefore, if he is having any right, he has to work out his remedy in a separate proceedings and he is not a proper and necessary party in this suit.

4. As rightly submitted by the learned counsel for the petitioner that the first respondent, without giving details of the lease, filed Ex.P1. The first respondent claims right on the basis of an unregistered lease agreement. The plaintiff is the dominus litis and he is entitled to choose his adversary. When the first respondent has not shown any right in the suit property, he cannot be impleaded in the suit filed by the first respondent for declaration and injunction.

5. The trial court allowed the application only on the ground to avoid multiplicity of proceedings. The findings of the trial court cannot be sustained. In view of the facts and circumstances of the case, the order of the trial court passed in I.A.No.172 of 2006 in O.S. No.400 of 2005 is liable to be set aside and it is accordingly set aside.

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

Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

ds/rgr

To

The District Munsif, Panruti.

+ 1 cc to Mr.K. Moorthy, Advocate SR.12399

+ 1 cc to Mr.V.Raghavachari, Advocate SR.12125

RV(CO)

EU 06.04.2015

C.R.P. (PD) No.1733 of 2006