



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2015

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (MD) .No.696 of 2015 (PD)

and

M.P. (MD) .No.1 of 2015

S.Ramanuja Mohan

... Revision Petitioner/Petitioner/
Proposed 2nd Defendant

vs.

1.Thangaraj

..1st Respondent/1st Respondent/Plaintiff

2.Kovilpatti Municipality

Rep by its Commissioner,

Kovilpatti Taluk,

Thoothukudi District.

... 2nd Respondent/2nd Respondent/
Defendant

PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No.1177 of 2014 in O.S.No.192 of 2014 dated 13.01.2015 on the file of the District Munsif Court, Kovilpattil.

For Petitioner : Mr.D.Srinivasaraghavan

For R1 : Mr.P.Subbiah

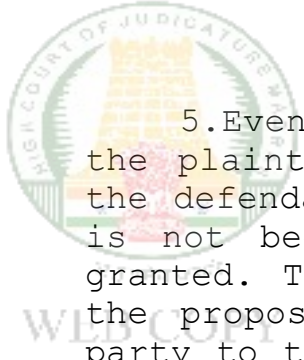
O R D E R

This revision is filed against the order passed by the District Munsif Court, Kovilpatti refusing to implead the revision petitioner in the suit as the second defendant.

2.The suit is filed by the plaintiff for declaration that the building Plan Approval No.226/2002 dated 17.10.2002 given by the defendant in favour of the plaintiff to demolish the existing ground floor building and to construct a new building with the first floor over the same has not come in to effect and for permanent injunction.

3.The proposed party is the revision petitioner, who is the neighbour of the property.

4.According to the revision petitioner, though the plaintiff had got the approved plan in the year 2002 he has not put up a building in accordance with the same. He had violated the building condition and the construction is in deviation from the approved



5. Even in the plaint in Paragraph No.6, it has been averred by the plaintiff that the proposed party had given an objection to the defendant for using the first floor as a marriage hall, as it is not been used for the purpose for which, the sanction was granted. The plaint further refers to the writ petition filed by the proposed party. But, the plaintiff without adding him as a party to the lis has filed the suit and proceeding with the same. Therefore, the proposed party, who is the revision petitioner has filed an application to implead himself in the suit, which was dismissed by the trial Court on the ground that he will not be affected in the event of decree being passed in favour of the plaintiff. Further, the reading of the plaint shows that the plaintiff has filed the suit only based on the complaint given by the proposed party. Even in the cause of action paragraph in the plaint it has referred to the writ petition filed by the proposed party. Therefore, his presence should be necessary for complete and effective adjudication of the dispute, though no relief is claimed against him.

6. The petitioner places his reliance on the decision of the Hon'ble Supreme Court in *RAVI YASHWANT BHOIR V. DISTRICT COLLECTOR, RAIGAD AND ORS.*, reported in 2012(4) SCC 407, in which Paragraph No.44 it has been held as follows:

"44. Shri Chintaman Raghunath Gharat, Ex-President was the complainant, thus, at the most, he could lead the evidence as a witness. He could not claim the status of an adversial litigant. The complainant cannot be the party to the lis. A legal right is an averment of entitlement arising out of law. In fact, it is a benefit conferred upon a person by the rule of law. Thus, a person who suffers from legal injury can only challenge the act or omission. There may be some harm or loss that may not be wrongful in the eyes of law because it may not result in injury to a legal right or legally injuria. The complainant has to establish that he has been deprived of or denied of a legal right and he has sustained injury to any legally protected interest. In case he has no legal peg for a justiciable claim to hang on, he cannot be heard as a party in a lis. A fanciful or sentimental grievance may not be sufficient to confer a locus standi to sue upon the individual. There must be injuria or a legal grievance which can be appreciated and not a stat pro ratione valuntas reasons i.e a claim devoid of reasons. Under the garb of being necessary party, a person cannot be permitted to make a case as that of general public interest. A person having a remote interest cannot be permitted to become a party in the lis, as the person wants to become a party in a case, has to establish that he has a proprietary right which has been or is threatened to be violated, for the reason that a legal injury creates a remedial right in the injured person. A person cannot be



heard as a party unless he answers the description of aggrieved party. (Vide: *Adi Pherozshah Gandhi v. H.M. Seervai, Advocate General of Maharashtra*, AIR 1971 SC 385; *Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed & Ors.*, AIR 1976 SC 578; *Maharaj Singh v. State of Uttar Pradesh & Ors.*, AIR 1976 SC 2602; *Ghulam Quadir v. Special Tribunal & Ors.*, (2002) 1 SCC 33; and *Kabushiki Kaisha Toshiba v. Toshiba Appliances Company & Ors.*, (2008) 10 SCC 766). The High Court failed to appreciate that it was a case of political rivalry. The case of the appellant has not been considered in correct perspective at all."

7. In the above judgment, it has been held that a person having a remote interest cannot be permitted to become a party in the lis. In this case, since the pleadings as well as the cause of action is with regard to the proposed party, any outcome of the proceedings would affect the revision petitioner adversely. Therefore, the revision petitioner has satisfied the Court that he would be the necessary party without whose presence, the suit cannot be properly adjudicated.

8. In the above circumstances, the order of the learned District Munsif Court, Kovilpatti made in I.A.No.1177 of 2014 in O.S.No.192 of 2014 dated 13.01.2015, is set aside and the civil revision petition is allowed. The revision petitioner should be impleaded as a party in the proceedings. The proposed party is directed to file his written statement within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub-Assistant Registrar

To

The District Munsif, Kovilpatti.

+One cc to Mr.P.Subbiah, Advocate, SR.No.16637

+One cc to Mr.D.Srinivasa Raghavan, Advocate, SR.No.16681

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RL/4 c- 20/4/2015

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