

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2016

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.497 of 2014

and

M.P.No.1 of 2014

K.Kamalanathan

... Petitioner/Plaintiff

.. Vs ..

1. Arumuga Chettiyar

2. Elango

...

Respondents/Defendants

3. E.Saritha

... Respondent/Proposed
3rd defendant

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order passed by the learned Principal District Munsif-cum-Judicial Magistrate, Vaniyambadi, dated 21.11.2013, in I.A.No.457 of 2013 in O.S.No.111 of 2009.

For Petitioner : Mr.A.M.Amutha Ganesh

For Respondents : Served. No Appearance

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ORDER

The plaintiff is the petitioner challenging the order refusing to implead the proposed third defendant in a suit for declaration of the plaintiff's possessor right in the suit property and for permanent injunction.

2. In the written statement filed by the second defendant, it is stated that the first defendant had entered into an agreement with the second defendant and accordingly, sold the property to the second defendant's wife on 17.02.2010. Though the said written statement was filed as early as on 27.09.2010, the present application to implead the proposed third respondent was filed only in the year 2013. Only on that ground, the learned Principal District Munsif-cum-Judicial Magistrate, had dismissed the application.

3. When it is admitted by the defendants themselves that the third defendant/proposed party purchased the suit property pending

the suit, it is necessary to implead her as a party to the suit for complete adjudication as the ownership of the property has been transferred and it is also necessary to resolve the dispute between the parties in the presence of the third respondent in whose favour the suit property was sold. Otherwise any decision in the absence of proposed third defendant, will lead to multiplicity of proceedings and also serious prejudice would be caused to the proposed third defendant. In view of the above circumstances, this Court is of the considered view that the proposed party has to be impleaded as third defendant in the suit.

4. Accordingly, the Civil Revision Petition is allowed. The order passed by the learned trial Judge in I.A.No.457 of 2013 in O.S.No.111 of 2009, dated 21.11.2013 is set aside. I.A.No.457 of 2013 shall stand allowed. The proposed party is given time to file her written statement after the impleadment.

Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

20.12.2016

Index : Yes/No
Internet : Yes/No
jrl

PUSHPA SATHYANARAYANA, J.

Jrl

To

The Principal District Munsif-cum-Judicial Magistrate,
Vaniyambadi.

C.R.P.(PD).No.497 of 2014

20.12.2016