

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2016

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.4773 of 2015

and

M.P.No.1 of 2015

M.Dhanalakshmi Ammal

.. Petitioner

Vs

1.M/s.Jaffer Mohammed Sait's Memorial
Dispensary Charity,
rep. by its Managing Trustee,
Mr.Jaffer Mohammed Sait @ Saad Ahamed Sait,
Southwick, Coonoor Road,
Ootacamund, The Nilgiris.

2.Ootacamund Municipality,
rep. by its Commissioner,
Ootacamund, The Niligiris.

.. Respondents

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 20.07.2015 made in I.A.No.245 of 2012 in O.S.No.2 of 2012 on the file of the District Munsif Court, Udthagamandalam, The Nilgiris.

For Petitioner : Mr.V.Rajesh

ORDER

The Civil Revision Petition is filed against the order dated 20.07.2015 made in I.A.No.245 of 2012 in O.S.No.2 of 2012 on the file of the District Munsif Court, Udthagamandalam, The Nilgiris.

2.The petitioner as a plaintiff filed a suit for injunction restraining the defendant Municipality to interfere his peaceful possession and enjoyment of the suit property in any manner except under due process of law. Admittedly the property is owned by Jaffer Mohammed Sait's Memorial Dispensary Charity. The Managing Trustee of the Trust, namely, the first respondent herein has filed an application to implead him as necessary party for adjudication. The Trial Court after hearing both sides has allowed the application. Against which, the present Civil Revision Petition has been filed.

3.Learned counsel for the petitioner submitted that the first respondent has not given any reason as to how he is a necessary party for proper adjudication. He further submitted that he has not sought for any remedy against the first respondent/landlord. He would also submitted that the Trial Court in paragraph No.10 of its order has stated that even though no reason has been mentioned as to how he is a necessary party, the Trial Court has

impleaded him as a party to the proceeding since he is the owner of the property. Hence, he prayed for setting aside the impugned order passed by the Trial Court.

4.At the time of admission, argument of the learned counsel for the petitioner is heard in length.

5.The petitioner as a plaintiff filed a suit for bare injunction stating that the property belong to the proposed party. He took lease by way of lease deed dated 05.05.2010 and the monthly rent agreed was Rs.2 lakhs. The petitioner has obtained permission and made construction. When he approached the defendant for assessment of property tax, at that time he received a threat of interference. Hence, he filed a suit. Admittedly it is to be decided whether he obtained a consent for putting up construction. In paragraph No.4 of the affidavit he has stated that since the property belongs to the Trust, to safeguard the interest of the Trust, the proposed party is necessary for proper adjudication even though no relief has been sought for against him. Furthermore, the Municipality alone has the right to assess the property tax and if there is any violation in Construction, they can issue notice to demolition of the same after following the procedure laid down in the Rules. In such circumstances, I am of the view that this first respondent/proposed

party is the owner of the property and for effective adjudication his presence is necessary. So, I do not find any reason to interfere with the finding of the Trial Court and the Civil Revision Petition deserves to be dismissed.

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

06.01.2016

Index: Yes/No
Internet: Yes/No
cse

To

The District Munsif,
Udhagamandalam, The Nilgiris.

R.MALA. J.,

cse

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