

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP(PD)No.1378 of 2016
and C.M.P.No.7674 of 2016

N.Anandharama Kounder ... Petitioner

Versus

1. Kalilur Rahman
2. V.Gnanasekaran ... Respondents

This Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 29.01.2016 made in I.A.No.36 of 2015 in O.S.No.15 of 2012 on the file of the Principal District Munsif, Tindivanam.

For Petitioner : M/s.G.Baby

ORDER

The petitioner, in his capacity as a defendant, filed an application in I.A.No.36 of 2015 in O.S.No.15 of 2012 before the Trial Court to implead the vendor of the first respondent as a party to the suit. The application was dismissed by the Trial Court. Feeling aggrieved, the petitioner is before this Court.

2. According to the learned counsel for the petitioner, the proposed party is a necessary party for an effective adjudication of the suit.

3. The suit in O.S.No.15 of 2012 was filed by the first respondent for declaration and permanent injunction. There is no relief claimed against the proposed party. The petitioner wanted to implead the vendor on the ground that the vendor has no right to execute the sale deed in favour of the first respondent.

4. The suit in O.S.No.15 of 2012 was filed for declaration and permanent injunction. It is for the first respondent to prove that he is entitled for a decree declaration. It is not as if, the burden of proof is on the petitioner to prove the negative. I am therefore of the view of that the trial Court was perfectly correct in dismissing the application filed for impleading.

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

20.09.2016

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To

The Principal District Munsif,
Tindivanam.

K.K.SASIDHARAN, J.

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