

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.10.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.R.P (NPD) No.1670 of 2013

&

M.P.No.1 of 2013

Arjunan

... Petitioner

Vs.

1.Venkatasamy
2.Rajendran
3.Madhugopal
4.Ravi
5.P.K.Kaveri
6.K.M.Nagaraj
7.S.A.Anwar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the orders of the learned District Munsif of Krishnagiri dated 05.01.2013 and made in I.A.No.664 of 2012 in O.S.No.264 of 2007.

For Petitioners : M/s.K.Karthick Asath

ORDER

This memorandum of revision has been directed against the fair and decretal order dated 05.01.2013 and made in I.A.No.664 of 2012 in the suit in O.S.No.264 of 2007 on the file of the District Munsit, Krishnagiri. The

revision petitioner herein is the plaintiff in the suit, whereas respondents 1 to 6 are the defendants and the 7th respondent, who is sought to be impleaded, is the proposed defendant in the suit.

2. As it is manifested from the records, the revision petitioner seems to have filed the above suit as against respondents 1 to 6 and thereby sought the relief of declaration and consequential relief of permanent injunction.

3. The revision petitioner has claimed exclusive title over the property. The suit was also resisted by the respondents 1 to 6 by filing their written statements. After formulating necessary issues, the process of recording of evidence was commenced. After the completion of evidence on the part of the revision petitioner, the suit was posted for the examination of defendants' side. According to the revision petitioner/plaintiff, he was put to understand that the respondents 1 to 6 / defendants had sold their properties lying adjacent to the suit properties to the proposed 7th defendant.

4. They have also contended that the respondents 1 to 6 were trying to encroach upon the properties, which is lying next to the suit property. It is also their case that the respondents 5 and 6 had sold the above properties to the proposed 7th defendant on 04.07.2012 and the sale deed was also registered at the office of Sub-Registrar, Kaveripattinam bearing Document

No.1875 /2012. Only under this circumstance, the revision petitioner/plaintiff happened to file the above application in I.A.No.664 of 2012 for the impleadment of the 7th defendant S.N.Anwar for the better adjudication of the suit. According to Mr.V.Nicholas, the presence of the 7th proposed defendant is absolutely necessary and without his presence, the suit cannot be effectively disposed of. However, the learned trial Judge had proceeded to dismiss the application.

5. When the revision petition is taken up for hearing today, despite service of notice, respondents 1 to 7 have not chosen to appear either in person or through their respective counsel and therefore they are called absent. But considering the nature of case and on hearing Mr.V.Nicholas and having perused the impugned order, this Court is of view that as contemplated under Order I Rule 10(2) of the Code of Civil Procedure, the presence of the proposed 7th defendant is absolutely necessary so as to enable the court effectively and completely adjudicate upon and settle all the questions involved in the suit. Keeping in view of this fact, this Court finds that the impugned order is liable to be set aside.

6. Accordingly, the revision petition is allowed. The impugned order dated 05.01.2013 is set aside and the petition in I.A.No.664 of 2012 is allowed. The trial Court is directed to amend the plaint and after giving necessary opportunities to the parties, the suit shall have to be disposed of

within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

18.10.2016

Index: Yes/No
Internet: Yes
gpa

To

The District Munsif
Krishnagiri

T.MATHIVANAN.J.,

gpa

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