

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1659 of 2016
and
C.M.P.No.8935 of 2016

M/s.Chinthamani Colony
Flat Owners' Welfare Association,
Block 1 to 6, SL No.394 of 2011,
represented by its Secretary,
P.K.Mahalakshmi,
Ponnambalam Salai,
K.K.Nagar, Chennai - 600 078.

... Petitioner

vs

1.M/s.Lakshmi Apartment Flat
Owners' Welfare Association,
Regn. No.310 of 1991,
represented by its Secretary,
11B, Ponnambalam Salai,
K.K.Nagar (W),
Chennai - 600 078.

2.The Chairman,
Housing Board,
Nandanam, Chennai.

3.The Tahsildhar,
Mambalam Guindy Taluk,
Chennai.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned XIII Assistant City Civil Judge, Chennai, passed in I.A.No.7061 of 2013 in O.S.No.2206 of 2013 on 29.02.2016.

For Petitioner : Mr.G.Veerapathiran

For Respondents : Mr.P.Arunkumar

ORDER

This revision arises against the order of learned XIII Assistant City Civil Judge, Chennai, passed in I.A.No.7061 of 2013 in O.S.No.2206 of 2013 on 29.02.2016.

2. Petitioner/plaintiff has filed O.S.No.2206 of 2013 on the file of learned XIII Assistant City Civil Judge, Chennai, seeking permanent injunction. In such suit, petitioner/plaintiff moved I.A.No.7061 of 2013 towards impleading respondents 2 and 3 as defendants in the suit. The Court below, under the impugned order, dismissed such application. Hence, this revision.

3. Heard learned counsel for petitioner and learned counsel for respondents and perused the records.

4. Learned counsel for petitioner submits that the purpose of the petitioner seeking impleading or proposed parties was towards having the production of records which would inform which areas were common and which were not.

5. In dismissing the application, the Court below has reasoned that the petitioner/plaintiff has already filed two interlocutory applications and the same were decided in its favour, against which a Civil Miscellaneous Appeal has been filed by first respondent/defendant. The appellate Court modified the said order based on the undertaking given by first respondent/defendant. There against, the petitioner/plaintiff as well as the first respondent/defendant have filed Civil Revision Petitions before this Court and upon their consent, an Advocate Commissioner was appointed towards noting down the physical features as also finding out as to whether any construction was in progress. While disposing of the Civil Revision Petitions, this Court also took into consideration the fact that pending the Civil Miscellaneous Appeal, the official of the second respondent has been examined as CW-1, through whom Exs.C1 to C3 were marked. The evidenciary value thereof has also been discussed. It further found that the suit has been filed seeking the relief of bare injunction. That apart, in the instant case, the proposed parties are neither necessary parties nor formal parties and in the absence of any pleading as against them,

the relief sought by the petitioner/plaintiff cannot be granted.

6. This Court is of the view that it is not necessary to interfere with the order under challenge. The purpose informed by learned counsel for petitioner can well be achieved by moving appropriate application before the Court below towards summoning of the appropriate records. Such application may be dealt with by the Court below on merits. However, considering the submissions of learned counsel on either side this Court would direct learned XIII Assistant City Civil Judge, Chennai, to dispose of O.S.No.2206 of 2013 as expeditiously as possible, in any event, not later than six months from the date of receipt of this order.

The Civil Revision Petition, accordingly, is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.06.2016

Index:yes/no
Internet:yes
gm

To

The XIII Assistant City Civil Judge,
Chennai.

C.T.SELVAM, J

gm

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