

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.2034 of 2016

&

C.M.P.No.10593 of 2016

V.Jayapal Reddy (Alias) Jayaraman

... Petitioner

vs

1.G.D.Gurusamy

2.M/s. G.D.Gurusamy and Co

A partnership firm

represented by its partner G.D.Gurusamy

both are at No.67/25

Mint Subbarayalu Naicker street

Old Washermanpet

Chennai-600 021

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in I.A.No.1416/2013 in O.S.No.779 of 2005 dated 29.03.2016 on the file of Principal District Munsif Court, Alandur, Chennai.

For Petitioner : Mr.M.V.Seshachari

For Respondent : Mr.G.Vijayakumar

ORDER

This revision challenges the order of learned Principal District Munsif, Alandur, passed in I.A.No.1416/2013 in O.S.No.779 of 2005 dated 29.03.2016.

2. The defendant in O.S.No.779 of 2005 has filed this Civil Revision Petition challenging the order dated 29.03.2016 passed in I.A. No. 1416 of 2013 by the learned Principal District Munsif, Alandur. The suit was filed by the plaintiff/respondent herein for a declaration that the suit 'C' Schedule Property of the Plaintiff is a common passage which shall be used by the plaintiff/respondent herein free from any hindrance and for a mandatory injunction directing the defendant/petitioner herein to demolish the structure constructed by him on the Western side of the suit 'C' Schedule Property.

3. Pending suit, the revision petitioner/defendant has filed I.A.No. 1416 of 2013 under Order I Rule 10 (2) of CPC to implead M/s. G.D. Gurusamy and Co., a Partnership firm represented by its partner, the Plaintiff herein. According to the revision petitioner/defendant, the property in dispute stands in the name of the proposed respondent, which is a firm and therefore to have a proper and effective adjudication, impleading the firm as one of the parties to the suit is necessary.

4. The impleading application has been resisted by the plaintiff by contending that the partnership firm itself has been dissolved in the year 2006 and the property in suit is not that purchased by the firm.

Further, the defendant and his father sold property to the partnership firm on 03.09.1975 and thereafter, the property was sold under a sale deed dated 31.03.1983 in favour of one Mr. Gopi. In any event, the partnership firm itself is not in existence and impleading the firm as a party to the suit is not necessary.

5. The trial court, on appreciation of the rival contentions concluded that the property which stood in the name of the partnership firm is not the subject matter of the suit. Further, the partnership itself has been dissolved and therefore, impleading the firm as a party to the suit is not necessary for disposal of the suit.

6. Heard the learned counsel for petitioner and the learned counsel for respondents.

7. In an application under Order I Rule 10 of CPC, the petitioner is bound to establish in what way impleading a person is proper and necessary for adjudication of the lis. The suit was filed for declaration and Mandatory Injunction in respect of 'C' Schedule of the plaint. The property said to have been owned and possessed by the partnership firm is not the subject

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matter of the suit before the trial Court. Further, the partnership firm itself has been dissolved in the year 2006 and the partnership firm has nothing to do with the adjudication of the suit. This Court is of the view that no useful purpose will be achieved by impleading the partnership firm as a party to the suit. There is no nexus between the partnership firm and the property which is the subject matter of the suit filed by the plaintiff. Therefore, this Court is of the view that the order passed by the Court below is a reasoned one which calls for no interference.

The Civil Revision Petition is therefore dismissed. No costs. Connected miscellaneous petition is closed.

08.08.2016

Internet:yes

To

The Principal District Munsif, Alandur

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&

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