

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P.PD.No.1958 of 2012

and

M.P.No.1 of 2012

1.V.Rajagopal

2.Selvakumar

3. Anandakumar

... Petitioners

- Vs -

1. Akalya

2. K.Duraisamy

3. Kamalam

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Decreetal Order dated 20.01.2012 and made in I.A.No.361 of 2011 in O.S.No.324 of 2004 on the file of the District Munsif Court, Ponneri.

For Petitioners : Mr.N.R.Anantha Ramakrishnan

For 1st Respondent : Mr.V.Raghavachari

For Respondents 2 and 3 : No Appearance

ORDER

The fair and decreetal order dated 20.01.2012 and made in the application in I.A.No.361 of 2011 in the suit in O.S.No.324 of 2004 on the file of the learned District Munsif at Ponneri are under challenge in this revision.

2. The revision petitioners herein are the 1st respondent and respondents 4 and 5 in the application in I.A.No.361 of 2011. The 1st respondent herein is the 3rd defendant in the suit, whereas the respondents 2 and 3 herein are the defendants 1 and 2.

3. It is manifested from the records that the 1st revision petitioner herein seems to have filed the suit in O.S.No.324 of 2004 on the file of the learned District Munsif at Ponneri, as against the revision petitioners and the respondents 1 and 2 herein and thereby sought the relief of recovery of possession of the suit property as well as for recovery of damages to the tune of Rs.45,000/- towards the value of plaintiff's trees and plants which were said to have been damaged and uprooted by the defendant.

4. This suit was resisted by the 3rd defendant who is the petitioner in the I.A.No.361 of 2011 by filing their written statement. During the pendency of the suit, the 3rd defendant who is the 1st respondent herein had taken out an application in I.A. Under Order 1 Rule 1 and 2 of C.P.C., to implead the respondents 4 and 5 herein as the co-plaintiffs in the suit.

5. Despite strenuous contest made by the respondents 1 to 5 herein the

learned Trial Judge had proceeded to allow the application as prayed for. Having been aggrieved by the impugned order dated 20.01.2012, the plaintiff as well as the proposed plaintiffs 2 and 3 stand before this Court with this revision.

6. Heard Mr.N.R.Anantha Ramakrishnan, learned counsel for the revision petitioner and Mr.V.Raghavachari learned counsel for the 1st respondent.

7. This Court understands from the averments of the affidavit filed by the 3rd defendant herein that she had purchased the suit property from the 2nd defendant and in pursuant to an order passed in I.A.No.1064 of 2009 she was ordered to be impleaded as one of the defendant in the suit.

8. It is also stated that even before the filing of an application to implead her as one of the defendants, the plaintiff has settled the suit property under two separate settlement deeds in favour of his two sons, who are the proposed plaintiffs 2 and 3 and as per the recitals of the settlement deed, he had delivered the respective portion in favour of his two sons and as such, the plaintiff seems to have any right over the suit property and only under this circumstance, the 4th defendant happened to file the above said application to

implead the sons of the plaintiff as the plaintiffs 2 and 3. As per the provisions of Order 1 Rule 1 of C.P.C., this Court finds that the revision petitioners 2 and 3 are absolutely the proposed parties.

9. As per the provisions of sub-rule 2 of Rule 10 to Order 1 CPC the Court may at any stage of the proceedings, either upon or without the application of either party, may implead either as defendant or as plaintiff whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. Therefore, it is made clear that for the purpose of settling the issues involved in this suit, the presence of the revision petitioners 2 and 3 are very much essential and accordingly, the trial Judge has proceeded to allow the application and they have also impleaded as plaintiffs 2 and 3 in the suit.

10. Considering the above aspect, this Court finds that the order of the trial court does not suffer with any infirmity or illegality and therefore, this Civil Revision Petition is devoid of any merits and liable to be dismissed.

11. Accordingly, this Civil Revision Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.11.2016

Index:Yes / No
Internet: Yes
ssn

To

The District Munsif Court,
Ponneri.

T.MATHIVANAN, J.,

ssn

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