

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3486 of 2016 and
CMP.No.17759 of 2016

M.Sankar

...Petitioner

versus

1.Arulmighu Angalaparameswari Amman and
Kasiviswanathaswamy Thirukkcoil,
Rep. by its Executive Officer,
Choolai, Chennai - 600 112.

2.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai - 600 003.

3.Kasturibai

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 29.08.2016 made in I.A.No.13724 of 2015 in O.S.No.4591 of 2014 on the file of VIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.V.K.Rajagopalan

ORDER

The first respondent filed a suit in O.S.No.4591 of 2014 against the petitioner, praying for a decree of permanent injunction and mandatory injunction. The suit was resisted by the petitioner.

2. The petitioner filed an application before the Trial Court in I.A.No.13724 of 2015 to implead the third respondent, who is stated to be the vendor, as a party. The application was dismissed by the Trial Court. The said order is under challenge in this civil revision petition.

3. The learned counsel for the petitioner contended that it was only to prove the case pleaded by the petitioner, the third respondent was sought to be impleaded as a party. According to the learned counsel, it would be very difficult to summon the third respondent as a witness before the Court and as such, the petitioner thought it wise to implead her as a party to the civil suit.

4. The suit in O.S.No.4591 of 2014 was instituted by the first respondent against the petitioner. There was no allegation made by the first respondent in the said suit against the proposed party. In case, the petitioner wanted the third respondent to give evidence on his behalf, it is always open to him to file an application before the Trial Court to summon his vendor to give evidence. The suit was laid only by the first respondent. It is for the first respondent to decide against whom the suit should be laid. The petitioner cannot compel the first respondent to implead a third party to the suit merely for the reason that the newly

added party would give evidence in support of his case. The Trial Court considered the background facts and rightly dismissed the application filed by the petitioner. I do not find any error or illegality warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

5. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

09.11.2016

Index : Yes/No
svki

To

The VIII Assistant City Civil Court,
Chennai

K.K.SASIDHARAN, J.
(svki)

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