

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) Nos.761 and 762 of 2016
and
C.M.P.Nos.4189 and 4190 of 2016

1. T.Selvaraj

2. T.Yesoda

... Petitioners in both CRPs

vs.

1. P.Gopal

2. G.Tamilarasi

3. P.Govindammal

4. P.Vadivel

5. N.Kalyana Sundaram

6. N.Natesan

7. A.Thangavelu

8. N.Manikodi

9. P.Suguna

10.Kuppan @ Kuppusamy ... Respondents in C.R.P.No.761 of 2016

1. P.Gopal

2. G.Tamilarasi

3. P.Govindammal

4. P.Vadivel

5. N.Kalyana Sundaram

6. N.Natesan

7. A.Thangavelu

8. N.Manikodi

9. P.Suguna

10.Kuppan @ Kuppusamy

11. Rajammal ... Respondents in C.R.P.No.762 of 2016

Prayer in C.R.P.Nos.761 and 762 of 2016

Civil Revision Petitions filed under Article 227 of the Constitution of India against the dismissal of I.A.No.941 of 2013 and I.A.No.880 of 2014 respectively in O.S.No.268 of 2010 dated 16.10.2015 on the file of the District Munsif Court, Sankari.

For Petitioner : Mr.K.A.Mariappan
in both CRPs

COMMON ORDER

The plaintiffs in the original suit O.S.No.268 of 2010 pending on the file of District Munsif, Sankari are the petitioners in the present revision.

2. The said suit was filed against the respondents 1 to 9 for permanent injunction. The respondents 1 to 6 are the owners of the adjacent properties lying on the north-east of the suit property. When the suit was posted for trial, the petitioners herein /plaintiffs filed I.A.No.941 of 2013 to implead Kuppan @ Kuppusamy as 10th defendant in the said suit on the premise that being the owner of the property lying on the south-eastern portion abutting the plaintiffs property, who did not make any attempt at the time of filing of the suit

to cause disturbance to the plaintiffs possession and enjoyment of the suit property, subsequently started giving trouble. The said Kuppan @ Kuppusamy in the above said application filed a counter statement contending that in the property lying on the south-east of the suit property was partitioned between himself and his brother Thangavelu, in which, the northern portion which abuts the suit property was allotted to Thangavelu and the southern portion was allotted to Kuppan @ Kupusamy; that the portion thus allotted to him in the partition and in his possession and enjoyment is disjunct from the suit property and that hence, the petition to implead him should be dismissed. Based on the above said counter statement, the petitioners herein / plaintiffs filed another interlocutory application I.A.No.880 of 2014 to implead Rajammal as 11th defendant, since her husband Thangavelu had died. The learned trial Judge, after hearing, dismissed both the applications by order dated 16.10.2015. As against the said order, the Civil Revision Petitions came to be filed in C.R.P.Nos.761 and 762 of 2016. The arguments advanced on behalf of the petitioner are heard and the documents are perused.

3. The cause of action for seeking injunction against the original defendants, namely, defendants 1 to 9 arose long back in 2010, based on which, the suit came to be filed on that ground alone.

At the time of filing of the suit, neither Kuppusamy nor his brother Thangavelu was said to have either disputed the possession of the plaintiffs or made any attempt to disturb such possession of the plaintiffs. That was the reason, why the suit came to be filed without making them party defendants even though their property was abutting suit property on its south-eastern corner. If at all, any cause of action against them had arisen subsequent to the filing of the suit, the same may give a right to the revision petitioner/plaintiff to file a separate suit against them and it is not the ground on which they can be made parties to the suit already filed against respondents 1 to 9. Two separate causes of action are sought to be joined in the very same suit.

4. It is not the case of the petitioners / plaintiffs that the proposed parties have derived title from any one of the defendants 1 to 9. In that event they can be added as necessary parties. They claim title to their property independent of the claim of the other defendants. It is not the case of the petitioners /plaintiffs that the respondents and namely, the proposed parties, in fact trespassed into the property. On the other hand, the apprehended trespass and disturbance to the peaceful possession of the petitioners/plaintiffs alone is shown as the cause of action that has arise against the

proposed parties. Such cause of action having arisen nearly three years after filing of the suit, cannot be made the basis of their impleadment in the suit.

5. The learned trial Judge, on a proper appreciation of facts and on a proper understanding of the principles of law, dismissed both the applications by the impugned orders dated 16.10.2015. This Court does not find any defect, infirmity or illegality warranting interference with the same under Article 227 of the Constitution of India. There is no merit in the revisions and the revisions do not even merit admission.

6. Accordingly, the Civil Revision Petitions are dismissed at the threshold. No costs. Consequently, the connected miscellaneous petitions are closed.

08.03.2016

Index: Yes/No
Internet: yes/No

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To

The District Munsif Court,

Sankari.

P.R.SHIVAKUMAR.J

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