

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.85 OF 2016
AND CMP NO.446 OF 2016

M.Lakshmanan

... Petitioner

Versus

1.T.M.Bhoopathy
2.Anandraj Babuji

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 07.04.2015 passed by the learned XVIII Assistant City Civil Judge, Chennai, in I.A.No.4299 of 2015 in O.S.No.1491 of 2015.

For Petitioner : Ms.K.Bhanumathi

For Respondent-1 : Mr.S.Jaganathan

For Respondent-2 : Mr.T.Surendran

ORDER

The first respondent filed an application in I.A.No.4299 of 2015 before the XVIII Assistant Judge, City Civil Court, Chennai, praying for an order of injunction restraining the second respondent herein from

paying the rent to the petitioner. The petitioner was not made as a party to the said application. The learned Trial Judge without considering the fact that any order to be passed in I.A.No.4299 of 2015 would affect the case of the petitioner, allowed the said application. Feeling aggrieved, the second defendant in O.S.No.1491 of 2015 is before this Court.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the first respondent.

3. There is no dispute that the petitioner was arrayed as second defendant in O.S.No.1491 of 2015. The first respondent filed an application in I.A.No.4299 of 2015 for injunction without impleading the petitioner. Since the petitioner was a party to the civil suit, any order that would be passed in I.A.No.4299 of 2015 would have a bearing on him, more so when the order is adverse to him. The learned Trial Judge, failed to direct the respondents to implead the petitioner as a party. I am of the view that the learned Trial Judge was not correct in passing an order adverse to the petitioner without hearing him. I am therefore of the view that the said order is liable to be set aside.

4. In the result, the order dated 07.04.2015 in I.A.No.4299 of 2015 is set aside. The application in I.A.No.4299 of 2015 is restored to file. The petitioner is given two weeks time from the date of receipt of a copy of this order to file counter in the said application.

5. The XVIII Assistant Judge, City Civil Court, Chennai is directed to decided the application in I.A.No.4299 of 2015 afresh, on merits and as per law.

6. The Civil Revision Petition is allowed to the extent indicated above. No costs. Consequently, connected civil miscellaneous petition is closed.

07.11.2016

TK

To

The XVIII Assistant Judge
City Civil Court
Chennai.

K.K.SASIDHARAN, J.

TK

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