

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2016

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THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) Nos.897 and 898 of 2016

and

C.M.P.No.5856 of 2016

M.C.Jagdish

... Petitioner in both C.R.Ps

vs.

1. Rajan Puri
2. Church of South India
Coimbatore Diocese
Rep by tis Tresurer
S.David Mangal Doss

... Respondent in both C.R.Ps

Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and final order dated 30.10.2015 made in I.A.Nos.859 and 1103 of 2015 respectively in O.S.No.386 of 2015 on the file of the I Additional District Munsif Court, Erode.

For Petitioner : Mr.T.Murugamanickam

For Respondent-1: Mr.A.Sundaravadhanan

For Respondent-2: Mr.S.Bharathirajan

ORDER

The plaintiff in O.S.No.386 of 2015, pending on the file of the I Additional District Munsif Court, Erode, is the petitioner in both the revisions. The second respondent in the revisions is the sole

defendant in the above said suit. The suit was filed by the revision petitioner against the second respondent for a permanent injunction not to dispossess him in respect of the suit property without following due process of law, on the premise that he is a tenant under the second respondent herein. The suit is being contested by the second respondent.

2. While so, the first respondent herein filed I.A.No.1103 of 2015 to get him impleaded as second defendant in the said suit. He also filed I.A.No.859 of 2015 to get him impleaded as party respondent in the injunction application filed by the revision petitioner / plaintiff, namely, I.A.No.778 of 2015. While, the second respondent herein sailed with the first respondent / petitioner in the impleading applications, the learned trial Judge, after hearing both sides, by a common order allowed both the applications. As against the decretal order passed in I.A.No.1103 of 2015, C.R.P.No.898 of 2016 has been filed. As against the decretal order passed in I.A.No.859 of 2015, C.R.P.No.897 of 2016 has been filed.

3. The first respondent has filed a caveat and he has been given notice and he is represented by a counsel

Mr.A.Sundaravadhanan. The second respondent has entered appearance and he is represented by Mr.S.Bharathirajan, Advocate.

4. The matter involved in these revisions are simple and hence, this Court deems it appropriate to dispose of the Civil Revision Petitions at the stage of admission itself. Accordingly, the arguments advanced by Mr.T.Murugamanickam, learned counsel appearing on behalf of the petitioner, Mr.A.Sundaravadhanan, learned counsel appearing on behalf of the first respondent and Mr.S.Bharathirajan, learned counsel appearing on behalf of the second respondent are heard. The certified copy of the impugned order, the grounds of revisions and the copies of other material papers produced in the form of typed set of papers are also perused.

5. The plaintiff, claiming to be the tenant in possession of the suit property, filed the suit against the second respondent herein, who is admittedly, the landlord in respect of the suit property for a permanent injunction not to dispossess him without adopting due process of law. The first respondent claims that he had been a sub tenant under the plaintiff in respect of the suit property for some time and subsequently he became a direct tenant under the second

respondent and on the basis of the said contention, he wanted to get himself impleaded as a party defendant in the original suit and a party respondent in the injunction application. The first respondent was supported by the second respondent herein.

6. Both the applications were resisted by the revision petitioner / plaintiff contending that the tenancy between the petitioner / plaintiff and the second respondent / defendant had not been terminated and that the plaintiff alone was in possession. It was further contended that the first respondent was never a sub tenant under him and he was set up by the second respondent to resist the case of the petitioner / plaintiff and throw him out without adopting due process of law.

7. The contention of the revision petitioner / plaintiff is that if at all the first respondent, a third party to the suit, wants to establish his right and protect his possession, he could have very well initiated a separate suit instead of seeking his impleadment as defendant in the suit filed by the revision petitioner and thereby compelling the revision petitioner to seek a remedy against a person with whom the revision petitioner is not having any intention to get any relief.

8. The learned trial Judge, without properly appreciating the above said contention, simply made an observation that the first respondent was a proper and necessary party and hence, he should be impleaded and that the same would avoid multiplicity of proceedings. On that basis alone, the learned trial Judge allowed the said applications by the impugned orders, which are challenged in the present revisions.

9. Mr.T.Murugamanickam, learned counsel for the petitioner in the revisions has rightly contended that the revision petitioner/plaintiff cannot be compelled to seek a remedy against a person, who according to him, has nothing to do with the suit property and that if at all such person wants to establish his claim, it shall be open to him to file a separate suit and if circumstances warrant, he may also seek hearing of the cases by one and the same Court simultaneously or jointly. The said contention cannot be rejected as untenable.

10. This Court, upon considering the submissions made on both sides and after perusing the records, accepts the above said contention of the learned counsel for the petitioner to be a sound one

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and accordingly comes to the conclusion that both the revisions are to be allowed, the decretal orders are to be set aside and the interlocutory application Nos. 859 and 1103 of 2015 are to be dismissed.

11. In the result, both the Civil Revision Petitions are allowed. The orders of the trial Court dated 30.10.2015 made in I.A.Nos. 859 and 1103 of 2015 are set aside. I.A.Nos. 859 and 1103 of 2015 shall stand dismissed. However, by way of clarification, it is made clear that this order shall not be an impediment for the first respondent to file a separate suit for establishing his right and seeking necessary remedy, in an appropriate Court. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

04.04.2016

Index: Yes/No

Internet: yes/No

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To

The I Additional District Munsif Court, Erode.

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