

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1712 of 2017
and C.M.P.No.8083 of 2017

Dr.S.Govindan

.. Petitioner

Vs.

1.M.Vasugi
2.Madan Kumar
3.Shobana
4.Samathuvam Ammal

5.Indian Oil Corporation Ltd.,
rep. by its Senior Divisional Manager,
Indian Oil Corporation,
Indian Oil Bhavan,
D.No.8/1079, Avinasi Road,
Coimbatore 641 018.

6. Indian Oil Corporation Ltd. rep.
By its Asst. Manager, (Salem)
I.O.C., Salem 636 002.

7. T.Anand

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order passed by the learned III Additional District Judge, Salem, dated 30.08.2016 and made in I.A.No.203/2016 in O.S.No.67 of 2011.

For Petitioner : Mr.H.Kishore

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 30.08.2016 made in I.A.No.203 of 2016 in O.S.No.67 of 2011 on the file of the learned III Additional District Judge, Salem.

2. The petitioner is a third party to the suit. The respondents 1 to 3 are the plaintiffs and respondents 4 to 7 are the defendants 1 to 4 in O.S.No.67 of 2011. The above suit is filed for partition and separate possession. The respondents 4 to 7 had filed the written statement on 13.07.2011 and 16.12.2013 and are contesting the suit. The trial commenced and the respondents 1 to 3 closed their side. The suit was posted for cross-examination of behalf of the respondents 4 to 7. At this stage, the petitioner/third party filed I.A.No.203 of 2016 for impleading himself as 5th defendant in O.S.No.67 of 2011.

3. According to the petitioner, the land in question was assigned to Schedule Caste people and one Nallappan purchased a

portion of the property as per the document No.2646/1962 and the remaining part of the suit property was assigned to the petitioner by the Government and the said land can be transferred only to the individual who belongs to Schedule caste. The respondents 1 to 3 or the respondents 4 to 7 do not belong to the Schedule caste and therefore, they have no legal right or title over the suit property. The respondents 1 to 7 have encroached the suit property and therefore, the Revenue Divisional Officer, Mettur has issued a notice under Section 133(1) A, C.P.C. to the 1st respondent on 02.12.2015 to remove the encroachment in the suit property. In these circumstances, the petitioner is necessary and proper party in the suit.

4. The respondents 4 to 7 filed counter, denying all the averments mentioned in the affidavit, and prayed for dismissal of the said application.

5. The learned Judge, considering the averments made in the affidavit, counter affidavit, materials available on record, held that the petitioner is not necessary and proper party for the issue raised by the petitioner and he has nothing to do with the averments in

the plaint and written statement, and dismissed the application.

Against

which, the present civil revision petition is preferred by the petitioner/third party.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. The grievance of the petitioner is that the suit property was allotted to a person belonging to Schedule Caste people and one Nallappan purchased the portion of the property and the remaining portion can be sold only to person belonging to Schedule Caste community. The ground raised by the petitioner for impleading him as a party is nothing to do with the issue in the suit. The objections raised by the petitioner can be considered and decided only by the Government.

8. In view of the above facts and circumstances of the case, the learned Judge, considering all the facts, dismissed the application by giving cogent and valid reasons. There is no illegality or irregularity in the order passed by the learned Judge dated

30.08.2016 warranting interference by this Court.

9. In the result, the Civil Revision Petition stands dismissed.
No costs. Consequently, connected Miscellaneous Petition is closed.

02.06.2017

Index : Yes
jv

To

The III Additional District Judge,
Salem.

V.M.VELUMANI, J.

jv

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