

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 3249 of 2017
and
C.M.P NO.15193 of 2017

M/s. Indus Towers Limited
Rep. By its Authorised Signatory

.. Petitioner

Vs

Manickam alias Manickavasagam

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 22.03.2017 passed by the District Munsif Court at Tambaram in I.A. No.636 of 2017 in O.S. No. 384 of 2015 and to set aside the same.

For Petitioner : Mr.S. Anil Sandeep

ORDER

This revision arises against the fair and decretal order dated 22.03.2017 passed by the District Munsif Court at Tambaram in I.A. No.636 of 2017 in O.S. No. 384 of 2015 and to set aside the same.

2. The respondent has filed the suit in O.S. No. 384 of 2015 before the District Munsif Court, Tambaram for permanent injunction. After receipt of the notice, the revision petitioner has filed an Interlocutory Application in I.A. No. 636 of 2016 under order 7 Rule 11 of Code of Civil Procedure, for rejection of plaint. Counter statement has been filed by the respondents, by objecting the instant applications filed by the revision petitioner. After considering the same, the trial court has dismissed the said applications. Hence, the revision petitioner has filed the Civil Revision Petition before this Court.

3. It is the case of the petitioner that the Executive Officer, Peerkankaranai Town Panchayat, who is the competent authority under Tamil Nadu District Municipalities Act has granted approval for installation of the mobile phone towers on the roof of the buildings. The Government Order in GO.Ms.No.177 dated 17.12.2002 issued by the Municipal Administration and Water Supply Department provides specific permission for the installation of towers on private lands and buildings. Further, the respondents have no personal interest in the matter.

Firstly, considering the provisions under Order 7 Rule 11 of the Civil Procedure Code which is extracted as follows:

“Rejection of plaint - The plaint shall be rejected in the following cases:-

- a) where it does not disclose a cause of action.*
- b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- d) where the suit appears from the statement in the plaint to be barred by any law.*

(Provided that the time fixed by the Court for the correction of the valuation or supplying the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the

time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff)."

There is no sufficient grounds to invoke provisions under Order 7 Rule 11 of the Civil Procedure Code for allowing the applications.

4. Secondly, the petitioner has obtained necessary certificates for installation of towers in the suit property. The aforesaid fact is a triable issue and the same can be decided on merits in the suit. Therefore, the mixed question of fact can be decided at the time of trial by adducing oral and documentary evidence. Hence, at this stage, the order of the Court below is perfectly in accordance with law.

5. At this stage, the revision petitioner undertakes to file written statements in the above suits, before the trial court within four weeks from today and requests this Court to direct the trial court to dispose of the said suits as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this Order.

6. By considering the above request made by the learned counsel for the revision petitioner, in the event of written statement being filed within the said period, the trial court is directed to dispose of the suit in OS.No.384 of 2015 as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this Order.

7. The Civil Revision Petition is disposed of, with the above direction. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

15.12.2017

Index : Yes/ No

Speaking order/ Non speaking order

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To

The District Munsif Court,
Tambaram
Chennai.

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D. KRISHNAKUMAR J.,

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