

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 3715 of 2017
and
C.M.P.No. 17243 of 2017

Kannan

.. Petitioner

Vs

1. Amirtha

2. The State of Tamil Nadu,
Rep. by District Collector,
Sathuvachari,
Vellore District.

3. The Tasildar,
Gudiyattam,
Gudiyattam Taluk,
Vellore District.

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India as against the Order and Decreetal Order in I.A.No.467 of 2016 in O.S.No. 306 of 2009 dated 14.02.2017, on the file of the District Munsif Court at Gudiyattam, Vellore District.

For Petitioner : Mr. P.Vasanth

ORDER

This Civil Revision Petition arises against the order in I.A.No.467 of 2016 in O.S.No. 306 of 2009 dated 14.02.2017, passed by the District Munsif, Gudiyattam, Vellore District.

2. The 1st respondent herein filed a suit in O.S. No.306 of 2009 seeking for permanent injunction. When the matter was taken up for trial, the petitioner filed an application in I.A. No.467 of 2016, under Order 1 Rule 10(2) & Section 151 of C.P.C., to implead the 2nd and 3rd respondents herein, viz., the District Collector, Vellore and the Tahsildar, Gudiyatham Taluk, as parties to the suit. Counter affidavit was filed by the defendant/first respondent before the court below. After considering the contention of both the parties, the Court below has dismissed the said application, by holding that the said application has been filed belatedly, after concluding the evidence of the plaintiff and while the same is posted for cross examination of the defendant's side evidence. Challenging, the aforesaid order, the petitioner has filed the present Civil Revision Petition before this Court.

3. The learned counsel for the petitioner would submit that the respondents 2 and 3 are necessary parties in the said suit. The dispute is regarding the patta granted in favour of the plaintiff. When there is a dispute in the patta, they are necessary parties in the suit. Without considering the said fact, the court below has erroneously dismissed the application.

4. From the above facts, it is found that the 1st respondent has filed the suit in O.S.No.306 of 2009 for permanent injunction and it is clear that the dispute is only regarding the possession of the suit property. The suit was filed in the year 2009, the issues have been framed, the evidence on the plaintiff side was concluded and the case has been posted for cross examination of the defendant side witnesses. At this stage, the said application to implead, under Order 1 Rule 10(2) of C.P.C. has been filed. The petitioner has not given any reasons for the belated application, to implead the proposed respondents in the suit. Hence, the Court below has rightly held that the present suit is only for injunction and not for declaration and therefore the proposed defendants/ 2nd and 3rd respondents herein are not necessary parties in

the suit. Hence, there is no error or illegality in the order passed by the court below, to be interfered by this Court. It is for the parties concerned to establish before the Court below, for the relief in the said suit.

5. In view of the above, the Civil Revision Petition fails and the same is dismissed. Consequently the connected miscellaneous petition is closed. No costs.

24.10.2017

Index: Yes/No

Speaking order/ Non speaking order

avr/ msvm

To

The District Munsif Court,
Gudiyattam,
Vellore District.

सत्यमेव जयते
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D. KRISHNAKUMAR, J.

avr



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