

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2017

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP(PD)No.4045 of 2017

and

C.M.P.No.18908 of 2017

1.S.P.Blausamy

2.B.Poongodi

..Petitioners

Vs.

1.Devarajan

2.Rangasamy Gounder

3.Gunasekaran

..Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 25.04.2017 passed in I.A. No.341 of 2014 in O.S. No.315 of 2013 on the file of District Munsif Judge at Tiruppur.

For Petitioners : Mr.K.Myilsamy

ORDER

This Civil Revision Petition is filed praying to set aside the fair and decreetal order dated 25.04.2017 passed in I.A. No.341 of 2014 in

<http://www.judis.nic.in> O.S. No.315 of 2013 on the file of the District Munsif Judge at Tiruppur.

2. The learned counsel for the petitioners submitted that the petitioners have filed the suit in O.S. No.315 of 2013 on the file of the learned District Munsif Judge at Tiruppur for the relief of permanent injunction. In the said suit, the first respondent herein has filed an application in I.A. No.341 of 2014 to implead him as a party. In the aforesaid suit, Advocate Commissioner has inspected the suit property including the first respondent/petitioner's property in S.F. No.503,(T.S. No.A/3/15/3), S.F. No.504 (T.S.No:A/3/16/1), S.F. No.508/3 (T.S. No:A/3/16/3) and as such he is a necessary party in the said suit.

3. In the said application of impleadment, counter statement has been filed by the petitioners contending that the first respondent herein is not a necessary party in the aforesaid suit.

4. The trial Court, after considering the contentions of both the parties allowed the impleading petition on the ground that the first respondent/proposed party also owns properties in the survey numbers in which the suit property exists. Therefore, the first respondent herein is also determined as a necessary party in the said suit. Challenging the order this Civil Revision Petition has been filed before this Court.

5. The learned counsel for the petitioners would submit that the present suit has been filed against the 2 and 3 respondents/defendants. There is no claim against the first respondent/impleading petitioner, and as such, he is not a necessary party. Therefore, order passed by the the trial Court is liable to be setaside.

6. Heard, In the submissions made by the learned counsel for the petitioner and perused the materials available on record.

7. The fact remains that the trial Court has impleaded the first respondent/proposed party as a necessary party of the suit. In view location of the suit property besides the property of the first respondent and the Advocate Commissioner has inspected the suit property along with the property of the first respondent. Therefore, the objections of the petitioners that the first respondent is not a necessary party, has been rejected. Further, the trial Court has come to a conclusion that the first respondent/proposed party owns the said property and as such he is a necessary party to the above said suit.

8. In the light of the disputed facts and that the trial Court has framed the issues and it has to decide the *lis* involved in the suit, at this stage, the trial Court has rightly come to a conclusion to entertain the

D.KRISHNAKUMAR,J.
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Application filed by the first respondent of impleadment. No prima facie case has been made out by the petitioners to take a different view. However, it is made clear that the observations made by this Court in this order will not be influenced the trial Court at the time of trial.

9. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

09.11.2017

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Index :Yes/No
Internet:Yes/No

To

The District Munsif,
Tiruppur.

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