

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.03.2017

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**CRP(PD)Nos.4701 to 4703 of 2011
and
M.P.No.1 of 2013**

M.Senthil Kumar .. Petitioner in all the CRPs

Vs.

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Mettur Electricity Distribution Circle,
Mettur Dam-1, Mettur Taluk,
Salem District.

2.The Assistant Engineer (Operation & Maintenance)
Tamil Nadu Electricity Board,
Vellar, Mettur Taluk,
Salem District.

3.Sevvel ..Respondents in all the CRPs

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 14.10.2011 made in I.A.Nos.1055, 1056 and 1062 of 2011 in O.S.No.424 of 1999 on the file of the District Munsif Court, Mettur.

(In all the CRPs)

For Petitioner : Mr.T.Murugamanickam

For Respondents : Mr.P.Mani

COMMON ORDER

These Civil Revision Petitions in C.R.P.Nos.4701 to 4703 of 2011 are preferred against the interim orders of the learned District Munsif Court, Mettur made in I.A.Nos.1055, 1056 and 1062 of 2011 in O.S.No.424 of 1999. The revision petitioner herein is also petitioner in all the three interlocutory application before the Court below.

2.The revision petitioner as plaintiff has filed the above suit to declare that the defendants are not in title to effect new service connection to the suit well contenting that new service connection will affect the share of the revision petitioner, the 1st and 2nd defendant are electricity authorities, 3rd defendant namely Sevvel is co-sharer of suit well.

3.According to the revision petitioners/plaintiffs the suit well is a common property belonging to himself and as well the 3rd defendant. In the said circumstances the 3rd defendant has applied for electricity connection for suit well and it is the case of revision petitioner that effecting of new electricity connection will aversively affect his interest.

Therefore he filed the above suit.

4.In the said suit, the revision petitioner has filed Interlocutory Application in I.A.Nos.1055, 1056 and 1062 of 2011 such that I.A.No.1055 of 2011 to re-open the case of the plaintiff to give further evidence and secondly I.A.No.1056 of 2011 under Order 18, Rule 17 of CPC and I.A.No.1062 of 2011 under Rule 75 of Civil Rules of Practices seeking to send for certain documents under the custody of defendants 1 and 2.

5.All the three interlocutory applications were dismissed by the Trial Court holding that the scope of interlocutory applications are far beyond pleadings of revision petitioner and they are baseless and unacceptable without pleading. The said orders are under challenge by way of these civil revision petitions.

6.I heard Mr.T.Murugamanickam, learned counsel for the revision petitioner and Mr.P.Mani, learned counsel for the respondents in all the Civil Revision Petitions and perused the entire materials available on record.

7. On careful perusal of the records, it is seen from plaintiff averments, the case of the revision petitioner is that there is a common well, electricity connection is proposed by the electricity board to give service connection in the name of 3rd respondent. Hence it warranted him to file the above suit.

8. In the said suit it is further seen that DW2 (Assistant Executive Engineer) was examined by twice and I.A.No.1056 of 2011 is the third time sought for by the revision petitioner to adduce evidence.

9. However it is equally important to say that the evidence sought to be adduced pertain to service connection in S.C.No.68 said to have been disconnected in the year 1977 from the suit well. It is needless to say that absolutely no pleading that there was pre existing service connection till 1977. Further after laps of 12 years from institution of the suit, the revision petitioner has sought to adduce evidence concerning service No. 68, that too without pleading, therefore, I find that the Court below is right in rejecting the revision petitioner application to reopen his evidence and to recall DW-2 for further evidence and to send for documents of DW2.

10.In the result:

(a) All the three civil revision petitions in CRP(PD)Nos.4701, 4702 and 4703 of 2011 are dismissed, by confirming the orders in I.A.Nos.1055, 1056 and 1062 of 2011 in O.S.No.424 of 1999, dated 14.10.2011, passed by the learned District Munsif, Mettur;

(b) The learned District Munsif Court, Mettur, is hereby directed to take up the suit in O.S.No.424 of 1999 on day to day basis without giving any adjournments to either parties and to dispose of the same within a period of two months from the date of receipt of a copy of this order. Both the parties are hereby directed to give their fullest co-operation for early disposal of the suit. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2017

vs

Note:Issue order copy on 01.02.2019

Internet:Yes

Index:Yes

To

The District Munsif, Mettur.

WEB COPY

M.V.MURALIDARAN, J.

VS



**Pre-Delivery order made in
CRP(PD)No.4701 to 4703 of 2011
and
M.P.No.1 of 2011**

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