



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (MD)No.118 of 2017 (PD)

&

C.M.P. (MD)No.399 of 2017

A.Sekar

.. Petitioner

Vs.

1.Annadurai, S/o.Ponnambalam

2.Mahamuni, S/o.Ponnambalam

3.Balasubramanian, S/o.Lakshmana Iyer

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 08.09.2016, passed in I.A.No.877 of 2015 in O.S.No.1473 of 2008, on the file of the III Additional District Munsif Court, Tiruchirappalli.

For Petitioner : Mr.P.Arun Jayatram

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 08.09.2016, passed in I.A.No.877 of 2015 in O.S.No.1473 of 2008, on the file of the III Additional District Munsif Court, Tiruchirappalli.

2. Facts of the case:-

(i) The petitioner is a third party to the suit in O.S.No.1473 of 2008 on the file of the District Munsif Court, Tiruchirappalli. The respondents 1 and 2 are the plaintiffs and the third respondent and one B.Muthukumaran are the defendants in the suit. The respondents 1 and 2 filed the suit against the third respondent and the said B.Muthukumaran, for permanent injunction restraining them from interfering with their peaceful possession and enjoyment of the suit properties.

(ii) The third respondent filed written statement on 13.03.2009 and contested the suit.



(iii) The first respondent is the father of the petitioner. The second respondent is the paternal uncle of the petitioner. According to the petitioner, the grandfather of the petitioner/father of the respondents 1 and 2 was doing agricultural activities in the suit property as a lessee. After his death, the respondents 1 and 2 continued the agricultural activities in the suit property as lessees. The first respondent abandoned the petitioner and his mother 35 years ago and the petitioner is continuing the agricultural activities along with the second respondent, who is the paternal uncle of the petitioner. Therefore, he is proper and necessary party to the suit filed by the respondents 1 and 2 against the third respondent and one B.Muthukumaran. Hence, the petitioner has filed I.A.No.877 of 2015 to implead him as third plaintiff.

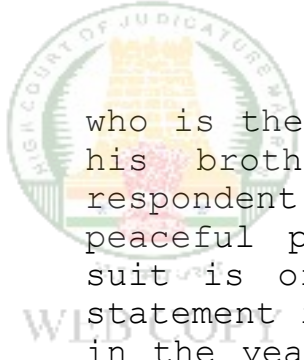
(iv) The learned III Additional District Munsif, Tiruchirapalli, upon considering the averments of the petitioner, dismissed the application holding that the petitioner has not substantiated his case that he is cultivating the land along with the second respondent and he does not prove his locus standi to implead him as third plaintiff.

3. Against the said order of dismissal dated 08.09.2016, the petitioner has come out with the present Civil Revision Petition.

4. The learned counsel for the petitioner submitted that the learned III Additional District Munsif, Tiruchirappalli, failed to see that the first respondent is not disputing the relationship of the petitioner. Only when the first respondent is disputed the relationship, he has to prove the relationship. The petitioner's grandfather was cultivating the suit property as a lessee and therefore, the petitioner is necessary and proper party to the suit.

5. I have heard the learned counsel for the petitioner and perused the materials available on record.

6. From the materials available on record, it is seen that the respondents 1 and 2 filed the suit for permanent injunction against the third respondent and one B.Muthukumaran on the ground that they are the lessees. The third respondent/first defendant filed written statement and denied the same and stated that they are only agricultural labourers and he himself cultivating the land. The petitioner is seeking to be impleaded as third plaintiff on the ground that his father/first respondent has abandoned the petitioner and his mother 35 years ago and he is cultivating the land along with the second respondent, who is the paternal uncle of the petitioner. The petitioner has not produced any document to show that he is cultivating the land along with the second respondent. On the other hand, the first respondent,



who is the father of the petitioner has filed the suit along with his brother for permanent injunction restraining the third respondent and one B.Muthukumaran from interfering with their peaceful possession and enjoyment of the suit properties. The suit is of the year 2008. The third respondent filed written statement in the year 2009. The petitioner filed the present I.A. in the year 2015. The learned III Additional District Munsif has rightly considered the fact that the petitioner has not proved his locus standi to implead himself as third plaintiff and he has not produced any evidence to show that he is also cultivating the land. In the circumstances, there is no irregularity or illegality in the order dated 08.09.2016, passed in I.A.No.877 of 2015 in O.S.No.1473 of 2008, by the learned III Additional District Munsif, Tiruchirappalli.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The III Additional District Munsif,
Tiruchirappalli.

+1 CC to M/s.P.ARUN JAYATRAM, Advocate, SR No. 3883

SMN2

PSM/MR-VB/02.02.2017/3P/3C

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