

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.04.2018

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRP No.1246 of 2018

and

CMP No.6372 of 2018

P.Sundaramoorthy ... Petitioner

.Vs.

1. S.Santhana Krishnan

2. S.Sreenivasan ... Respondents

Prayer : Civil Revision Petition filed Under Article 227 of Constitution of India to allow the above CRP, by setting aside the fair and decreetal order passed by the learned XII Assistant City Civil Judge, Chennai, in I.A.No.13999 of 2017 in O.S.No.3789 of 2015 dated 02.03.2018 and allow the said I.A and pass orders.

For Petitioner : Mr.Adaikala Arockiaraj

For Respondent : No appearance

O R D E R

This application has been filed to allow the above CRP, by setting aside the fair and decreetal order passed by the learned XII Assistant City Civil Court, Chennai, in I.A.No.13999 of 2017 in O.S.No.3789 of 2015 dated 02.03.2018 and allow the said Interlocutory application.

2. According to the learned counsel for the petitioner/proposed 2<sup>nd</sup> defendant, the petitioner is the absolute owner of the property and he should be impleaded as a party, which has not been done before the court below under the wrong assumption that he has not filed any petition to that effect. The learned counsel for the petitioner further states that if the petitioner is impleaded as a party, no prejudice will be caused to the first respondent.

3. According to the learned counsel for the first respondent, the petitioner has nothing to do with the suit and so he may not be impleaded as a party and prays for dismissal of the suit.

4. The Trial Court after perusing the documents produced in I.A.No.13999 of 2017 in O.S.No.3789 of 2015 dismissed the petition and passed a decreetal order dated 02.03.2018.

5. Now the first respondent has taken a different view and agreed to withdraw the suit with a liberty to file a fresh suit for the same cause of action.

6. Since, the first respondent himself intended to withdraw the suit itself, directed the first respondent to implead the petitioner as a party if he withdrawn the present suit and file a fresh suit for the same cause of action.

7. In view of the above this Civil Revision petition is disposed of however it is made clear that the petitioner is at liberty to file a fresh petition in the suit, if any filed by the first respondent, without impleading him as a party in that suit.

With the above direction the civil Revision petitioner is disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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