

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.05.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(PD) Nos.1717 to 1719 of 2018 and
C.M.P.Nos.9475 to 9477 of 2018

S.Premchand Jain ... Petitioner in all C.R.P's

Vs.

1. Suresh
2. Elizabeth Murray ... Respondents in all C.R.P's

Prayer in C.R.P.No.1717 of 2018:

Civil Revision Petition filed under Article 227 of the Constitution of India against the common order and decretal order dated 17.04.2018 passed in I.A.No.551 of 2015 in O.S.No.473 of 2015, by the Principal District Munsif at Alandur.

Prayer in C.R.P.No.1718 of 2018:

Civil Revision Petition filed under Article 227 of the Constitution of India against the common order and decretal order dated 17.04.2018 passed in I.A.No.802 of 2015 in I.A.No.505 of 2015 in O.S.No.473 of 2015, by the Principal District Munsif at Alandur.

Prayer in C.R.P.No.1719 of 2018:

Civil Revision Petition filed under Article 227 of the Constitution of India against the common order and decretal order dated

17.04.2018 passed in I.A.No.803 of 2015 in I.A.No.552 of 2015 in O.S.No.473 of 2015, by the Principal District Munsif at Alandur.

For Petitioner : Mr.K.M.Ramesh

COMMON ORDER

These civil revision petitions have been filed against the common order dated 17.04.2018 made in the interlocutory applications in O.S.No.473 of 2015 by the learned Principal District Munsif at Alandur.

2 The first respondent herein filed a suit in O.S.No.473 of 2015 on the file of the learned Principal District Munsif, Alandur, seeking permanent injunction restraining the defendant/ second respondent herein from forcibly evicting the plaintiff from the suit property without following due process of law. The Revision Petitioner filed interlocutory applications in I.A.Nos.551, 802 and 803 of 2015 respectively, under Order 1 Rule 10 (2) of CPC to implead him as second defendant in O.S.No.473 of 2015 and second respondent in I.A.No.505 of 2015 and I.A.No.552 in O.S.No.473 of 2015 respectively.

3 All the three interlocutory applications were taken up together by the trial Court. The trial Court after considering the arguments advanced on either side, found that there is no privity of contract between the petitioner and the first respondent and stated that the petitioner is not a necessary party to implead and without impleading the petitioner, the suit can be adjudicated effectually and completely and all the questions involved in the suit can be settled and dismissed the interlocutory applications filed by the revision petitioner. Assailing the same, the present civil revision petitions have been filed by the petitioner.

4 The learned counsel for the petitioner would submit that the first respondent herein filed a suit against the second respondent herein for permanent injunction and the same is pending. He further submitted that the petitioner is in possession of the suit property. The respondent filed suit collusively and respondents tried to dispossess him by getting decree behind him. Therefore the revision petitioner wanted to implead himself as party to the suit and hence, he has filed Interlocutory Applications. However, the said applications are dismissed.

5 The learned counsel for the petitioner would submit that though there is no relief sought for against the revision petitioner in the main suit, there are allegations levelled against him in the plaint. Hence, it is necessary to implead the revision petitioner. Accordingly, he prayed for allowing the civil revision petitions.

6 In support of his contentions, he has placed reliance on the decision of the Hon'ble Apex Court reported in **2013 STPL 8286 SC (Thomson Press (India) Ltd. vs. Nanak Builders & Investors P.Ltd & ORS)**.

7 Heard the learned counsel appearing for the petitioner and perused the materials available on record.

8 There is no quarrel with the legal proposition relied upon by the learned counsel for the petitioner. It is only discretionary power of the Court. The Court, under Order 1 Rule 10 (2) of CPC has to consider whether the proposed party in the impleading application is a proper and necessary party.

9 The first respondent herein has filed the suit against the second respondent herein. There is no relief sought for against the revision petitioner in the suit. Though there is some allegation against the revision petitioner in the plaint, as admitted by the learned counsel for the petitioner, the petitioner herein already filed suit against second respondent herein and her husband in O.S.No.13 of 2015 and it is pending before the same Court. If at all the first respondent herein dealing with the property collusively filed suit against the second respondent herein regarding the very same property either the petitioner very well can file application to implead first respondent in the suit filed by the revision petitioner in O.S.No.13 of 2015 or since both the suit are pending before the very same Court, he can very well take steps to either for joint trial or simultaneous trial of both the suits. This Court finds the revision petitioner is neither a proper party nor a necessary party. Hence, there is no necessity to implead the revision petitioner in the suit.

10 For all the above reasons, this Court is of the view that there is no merit in the revision petition and there is no illegality or

P.VELMURUGAN, J.

dh/pri

infirmity in the order passed by the Court below and these civil revision petitions are dismissed at the admission stage itself. Consequently, connected miscellaneous petitions are closed. No costs.

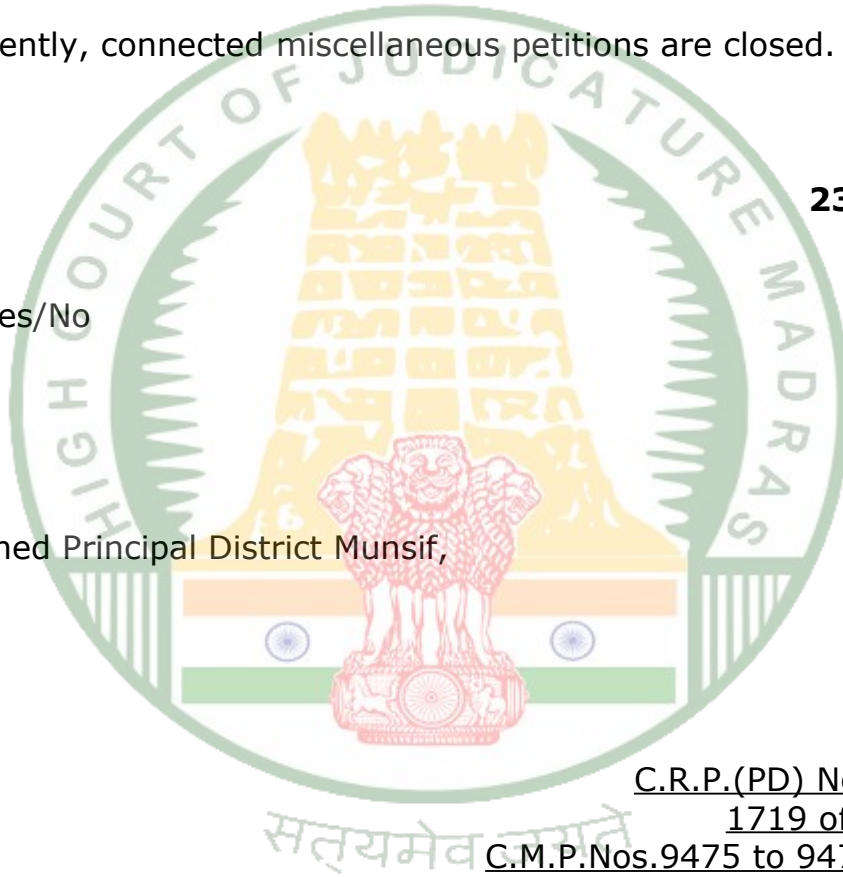
23.05.2018

Index: Yes/No

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To

The learned Principal District Munsif,
Alandur.



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