

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2018

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.2490 OF 2017
AND CMP NO.11800 OF 2017

A.Sangeetha

... Petitioner

Vs.

1.P.Udayakumar
 2.P.Jayaprakasam
 3.P.Johnson
 4.V.S.Krishna
 5.V.Ratnakumari
 Represented by their power of attorney
 holder K.Prabhakar Naidu
 6.Gurupadam
 7.J.Amsaveni
 8.R.Vijayakumar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 09.01.2017 passed in I.A.No.1513 of 2016 filed by the revision petition in O.S.No.179 of 2003 on the file of the Additional District Munsif's Court, Alandur, dismissing the application to implead the revision petitioner as party defendant.

For Petitioner : Mr.K.Ashok Kumar
 For Respondents : Mr.T.Karunakaran

ORDER

This Civil Revision Petition is directed against the dismissal of the impleading petition filed by the revision petitioner.

2. The revision petitioner claims that she is in possession of the suit property as a tenant through the seventh respondent. The suit is of the year 2003 and the seventh respondent has already filed written statement and issues were framed. The suit is at the trial stage posted for cross examination of P.W.2. At that stage, the petitioner has filed the above petition for impleading herself as fourth defendant in the suit.

3. From the perusal of the plaint, it is seen that there is no averment against the revision petitioner nor any relief is sought against her. On the other hand, the revision petitioner herself filed a suit in O.S.No.322 of 2014 against the respondents / plaintiffs for permanent injunction. Since there is no cause of action or relief sought against the revision petitioner, the Trial Court has dismissed the impleading petition as not tenable at the trial stage.

4. I do also find that the seventh respondent had successfully contested over the possession of the property upto High Court and matter reached finality in Second Appeal No.432 of 2013. In the said Second Appeal, this Court has found that the plaintiffs are in possession and the issue regarding the remaining extent of land was left open. Since the revision petitioner does not seek any title over the remaining extent of the land or has a better right than her lessor, she is neither necessary party nor a proper party to the suit. The finding of the Trial Court that the suit is at the advance stage of trial and that the impleading petition is borne out by *malafides* to prolong the proceedings and also to prevent the plaintiffs from getting their decree from the Court, is well founded. Therefore, the Civil Revision Petition merits no consideration and accordingly, is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

23.03.2018

Index : Yes/No
 Internet : Yes/No
 TK

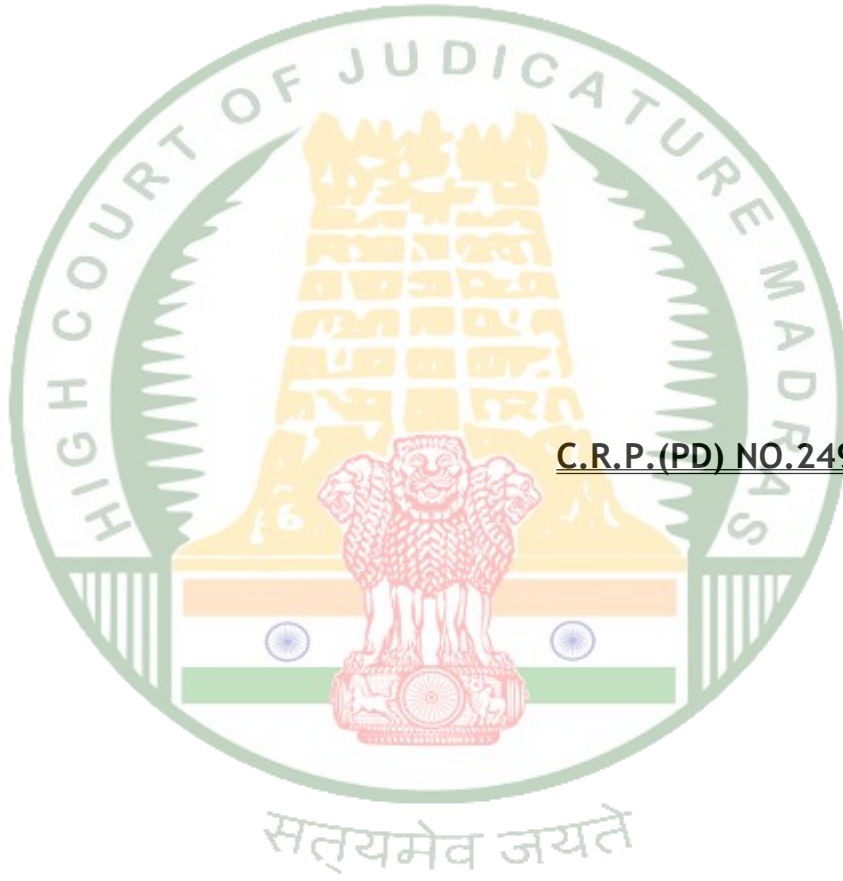
To

The Additional District Munsif
 Alandur.

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M.GOVINDARAJ, J.

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