

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.06.2018

Coram:

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

C.R.P.(PD)Nos.4356 of 2017 and 1765 of 2018 and
C.M.P.No.9852 of 2018

1. Kumaravel
2. Ravikumar
3. Ezhilkumar
4. Senthilkumar
5. Ashok Kumar
6. Suresh Kumar
7. Ram Kumar
8. Kannan
9. Hemalatha
10. Jayasudha

... Petitioners in both the CRPs

Vs.

Pichaimmal

... Respondent in CRP.No.1765 of 2018

1. Pichaimmal
2. Ashok Kumar
3. Anand
4. Shandhi
5. Jayanthi

... Respondents in CRP.No.4356 of 2017

Prayer in CRP.No.4356 of 2017: Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal orders passed in I.A.No.125 of 2017 in O.S.No.27 of 2007 dated 27.10.2017 on the file of the Court of District Munsif-cum-Judicial Magistrate, Kattumannar Koil.

Prayer in CRP.No.1765 of 2018: Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal orders passed in I.A.No.52 of 2016 in O.S.No.27 of 2007 dated 12.04.2018 on the file of the Court of District Munsif-cum-Judicial Magistrate, Kattumannar Koil.

For Petitioners : Mr.A.Muthukumar in both the CRPs

For Respondents: D.Padma Priya for R1 – No Appearance

COMMON ORDER

These civil revision petitions have been filed against the orders dated 27.10.2017 made in I.A.No.125 of 2017 and 12.04.2018 made in I.A.No.52 of 2016 in O.S.No.27 of 2007 by the learned District Munsif-cum-Judicial Magistrate, Kattumannar Koil.

2 The revision petitioners filed a suit in O.S.No.27 of 2007 before the learned District Munsif-cum-Judicial Magistrate, Kattumannarkoil, for bare injunction. Pending the suit, the revision petitioners filed two applications in I.A.No.52 of 2016 to amend the suit prayer as suit for specific performance instead of bare injunction and I.A.No.125 of 2017 seeking to implead the respondents 2 to 5 in CRP.No.4356 of 2017 in the original suit as defendants 2 to 5. The trial Court dismissed the I.A.No.125 of 2017 by an order dated 27.10.2017 holding that the petitioner has remedy by filing a fresh suit and also dismissed I.A.No.52 of 2016 by an order dated 12.04.2018 holding that the prayer in the application is hit by Order II Rule 2.

3 Aggrieved against the same, the plaintiffs are before this Court with these revision petitions.

4 The learned counsel for the revision petitioners/plaintiffs would submit that in order to avoid multiplicity of proceedings, the revision petitioners filed two applications seeking to amend the suit prayer as suit for specific performance instead of bare injunction and also to implead the respondents 2 to 5 in the suit as defendants 2 to 5. If the application in I.A.No.56 of 2016 filed to amend the suit prayers was allowed, the respondents 2 to 5 are necessary party to the suit. The learned trial Court has failed to consider the above facts and take up the application in I.A.No.125 of 2017 seeking to implead the respondents 2 to 5 and dismissed the same by an order dated 27.10.2017. Thereafter the trial Court has taken the application in I.A.No.56 of 2016 on file, which was filed to amend the suit prayer and dismissed the application by an order dated 12.04.2018, which is not sustainable in law.

8 Heard the learned counsel appearing for the revision petitioners and perused the materials available on record.

9 Admittedly the revision petitioners filed a suit for bare injunction in the year 2007 itself. After the lapse of 10 years they came forward with the application seeking to amend the prayer which is not maintainable. Further once suit is filed for bare injunction,

cannot be converted into suit for specific performance especially when all the parties to the agreement were not arrived as parties to the suit. As far as impleadment of respondents 2 to 5 is concerned, when the suit is for bare injunction, the person who is disturbing or trying to disturb the possession can only be impleaded as party to the suit and not others.

10 Under these circumstances, this Court is not inclined to exercise its power under Article 227 of the Constitution of India and it does not warrants any interference with the order passed by the trial Court.

11 In the result, both the civil revision petitions are dismissed. Consequently connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

18.06.2018

Internet: Yes/No

Index: Yes/No

cgi

WEB COPY

To

The District Munsif-cum-Judicial Magistrate,
Kattumannar Koil.



WEB COPY

P.VELMURUGAN, J.,

cgi



C.R.P.(PD)Nos.4356 of 2017 & 1765 of 2018 and
C.M.P.No.9852 of 2018

WEB COPY

18.06.2018