

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.1.2018

CORAM

THE HON'BLE MR.JUSTICE **D. KRISHNAKUMAR**

**C.R.P.(PD) No.4383 of 2017
and C.M.P.No.20849 of 2017**

Anand Matriculation Higher Secondary School
Rep. by its Correspondent,
Nemili Village,
Arrakkonam Taluk,
Vellore District.

..Petitioner/Plaintiff

Vs.

- 1 A.Babu
- 2 The District Collector,
Vellore District.
- 3 The Executive Officer,
Town Panchayat Office,
Nemili.
- 4 The Tahsildar,
Taluk Office,
Arakkonam,
Vellore District.

..Respondents/Defendants

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 27.02.2017 in I.A.No.517 of 2015 in O.S.No.108 of 2014 on the file of the District Munsif, Arakkonam.

For Petitioner : Mr.A.Suresh

ORDER

According to the petitioner, the petitioner has filed suit in O.S.No.108 of 2014 before the learned District Munsif, Arakkonam for permanent injunction against the respondents 2 to 4 herein. In the aforesaid suit, the first respondent has filed an application to implead him as 4th defendant in the suit, stating that item No.8 of the suit property belongs to the Government of Tamilnadu and the same is encroached by the revision petitioner/plaintiff and raised unauthorised school building in the aforesaid land. The first respondent has also filed W.P.No.15268 of 2011 before the High Court, wherein this Court passed an order directing the authorities to take necessary steps. The Court below erroneously allowed the application without considering the case of the petitioner. Hence, the petitioner has filed the present Civil revision petition before this Court to set aside the order passed by the Court below.

2 According to the petitioner, the first respondent has filed the instant application on the basis of the order passed by this Court in W.P.No.15268 of 2011. The revision petitioner has already impleaded concerned authorities in the suit and the suit can be effectively adjudicated in the presence of the respondents 2 to 4/defendants who are the authorities concerned. The first respondent who is no way

connected with the suit property has filed the instant application only to grab money from the petitioner. The first respondent being filed a writ petition in W.P.No.15268 of 2011, cannot take advantage in the order passed by the High Court, consequently, order passed by the authority to implead him as a party in the present suit proceedings. Hence, the order passed by the Court below is liable to be set aside.

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

4 On perusal of the record shows that this Court passed an order in W.P.No.15268 of 2011 issued direction to the respondent authorities for taking further action, The first respondent has filed written statement in the aforesaid suit, wherein it is stated that the suit property in S.No.230 is encroached by the revision petitioner for an extent of 2 cents. The said land is classified as "Aathu Kalvai poramboke" belongs to the Government. The said land is used for irrigation purpose maintained by P.W.D. authorities as per the records maintained by the revenue department. Therefore, the first respondent also is necessary party to in the suit to avoid multiplicity of proceedings. On the other hand, no prejudice would be caused to the petitioner, if the first respondent is also party to the suit.

D.KRISHNAKUMAR.J,

vaan

5 In view of the above and in the light of the order passed by this Court in W.P.No.4383 of 2017, the order passed by the Court below by allowing the application to implead the first respondent as a party is perfectly valid in law. Therefore, there is no warrant to interfere with the order passed by the Court below.

6 Accordingly, the Civil revision fails and the same is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

8.1.2018

Speaking/Non Speaking order
Index: Yes/No
Internet: Yes/No
vaan
To
The District Munsif, Arakkonam.

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