

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.02.2018

CORAM

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CIVIL REVISION PETITION(PD) No.2991 of 2016
and C.M.P.No.15099 of 2016

1.K.Sankaranarayanan

2.K.Karthikeyan

.. Petitioners

vs

V.Venugopal (died)

Rukmani (died)

1.Ragunath

2.Padmini

3.Urmila

4.Kuppammal

5.Rasal Thomas

6.Ramasamy

.. Respondents

The Civil Revision Petition filed under Article 227 of Constitution of India against the order and decretal order dated 03.08.2015 passed in I.A.No.218 of 2012 in O.S.No.747 of 2004 pending on the file of II Additional District Munsif, Coimbatore.

For Petitioners ... Dr.C.Ravichandran

For Respondents ... Mr.K.Sathish Kumar
for R.1 to R.3

No Appearance
for R.4 to R.6

ORDER

The Civil Revision Petition has been filed against the order and decretal order dated 03.08.2015 passed in I.A.No.218 of 2012 in O.S.No.747 of 2004 pending on the file of II Additional District Munsif, Coimbatore.

2.The brief facts of the case are as follows:

The revision petitioners/plaintiffs filed a suit in O.S.No.747 of 2004 seeking for mandatory injunction. In the aforesaid suit, the respondents/defendants filed a written statement on 26.07.2004 and thereafter, the third defendant filed an additional written statement on 06.01.2012 and the plaintiffs filed a reply statement on 28.02.2012. Thereafter, the respondents/defendants filed an application in I.A.No.218 of 2012 in O.S.No.747 of 2004 before the Court below to implead the respondents 4 to 6 as proposed defendants in the aforesaid suit on the ground that the aforesaid proposed respondents are the owners of the aforesaid suit property and therefore, they are

the necessary parties to the suit. The Court below allowed the said application on 03.08.2015. Aggrieved by the said order, the present Civil Revision Petition has been filed by the plaintiffs in the suit.

3.The learned counsel for the petitioners submitted that the proposed parties are no way connected with the suit property and they are not the owners of the property and hence, they are not the necessary parties. The learned counsel further submitted that the petitioners sought the relief only against respondents 1 to 3 and they have not sought any relief as against the proposed parties/respondents 4 to 6. Therefore, the order passed in I.A.No.218 of 2012 is liable to be set aside.

4.Per contra, the learned counsel for the respondents/defendants submitted that the respondents filed the written statement as well as the additional written statement wherein, they have stated that the proposed parties have purchased a portion of the suit property and therefore, they are the necessary parties to the suit, otherwise, the suit would be dismissed for non-joinder of necessary parties.

5.The contention of the revision petitioners in the suit filed by the revision petitioners for mandatory injunction against the respondents/defendants, the petitioners have not sought for any relief

as against the proposed respondents. Therefore, in view of the specific objection of the revision petitioners raised in the application, for impleading the proposed respondents as a party. By end of justice, this Court is of view that the Court below may frame the additional issues, for the defence raised by the respondents/defendants in the written statement.

6. Considering the facts and circumstances of the case and submissions made by the learned counsel for both sides, this Court has no hesitation to set aside the impugned order passed by the Court below and incline to pass the following order:

"(i) The order dated 03.08.2015 passed in I.A.No.218 of 2012 on the file of the District Munsif Court, Coimbatore is set aside.

(ii) The learned District Munsif, Coimbatore is directed to frame the issues for non joinder of necessary parties in the suit in O.S.No.747 of 2004, as defence raised in the written statement by the respondents.

iii) On instructions, both parties undertake to

co-operate before the trial Court without getting any adjournment.

(iv) The learned District Munsif, Coimbatore is directed to dispose of the suit in O.S.No.747 of 2004 in accordance with law on or before 30.06.2018.

(v) The Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed."

20.02.2018

Speaking/Non Speaking order

Index: Yes/No.

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To

The II Additional District Munsif,
Coimbatore.

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D.KRISHNAKUMAR,J.

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C.R.P.(PD)No.2991 of 2016

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Date: 20.02.2018