



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.1468 of 2018
and C.M.P. (MD) No.6361 of 2018

1. Baskar
2. Sekar
3. Iyyamuthu
4. Pappathi

... Petitioners/Petitioners/3rd parties
-Vs-

1. Badhurunnisha Bee
2. Ilimiya Begam
3. Arumugam

... Respondents/Respondents/Plaintiffs
... Respondent/Respondent/Defendant

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order of the learned District Munsif, Thuraiyur dated 14.11.2017 in I.A.No.1013 of 2017 in O.S.No.194 of 2015 and allow this revision petition.

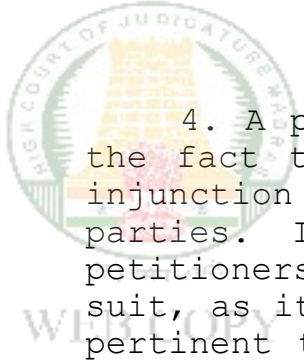
For Petitioners : Mr.S.Muthukrishnan

ORDER

The Civil Revision Petitioners are the third parties and they wanted themselves to be impleaded as defendants 2 to 5 in O.S.No.194 of 2015 on the file of the learned District Munsif, Thuraiyur and the said application was dismissed on the ground that no purpose would be served in impleading them as parties to the suit. Aggrieved by the said finding, the petitioners / 3rd parties are before this Court.

2. It is the case of the petitioners that in the suit, the plaintiffs had sought for permanent injunction against the defendant, in which, an Advocate Commissioner was appointed and he had also filed a report before the Court below, showing as if the house of the defendants is situated upto the centre of cement road. It is the further case of the petitioners that actually, the cement road is being used by the public for several years and in the litigation, an impression is created as if there was no road in the locality. Unless they are added as parties to the suit, a clear picture cannot be brought out and therefore, it is prayed that they are necessary parties to the suit and the order of the Trial Court is to be set aside.

3. Heard the learned counsel for the petitioners and the notice to other side is dispensed with, in view of the nature of disposal of this case.



4. A perusal of the relief sought for in the suit would unfold the fact that the suit was filed by the plaintiffs for permanent injunction against the defendant and not against the proposed parties. In the absence of any relief sought as against the petitioners, there is no necessity in adding them as parties to the suit, as it will pave way only to multiplicity of litigations. It is pertinent to mention here that the Court below will not render its findings merely on the basis of the report of the Advocate Commissioner, rather the evidence let in by the parties during trial would be the main criteria to just arrive at a conclusive decision. Of course, it is true that the Court can implead any party at any stage of proceedings under Order 1 Rule 10(2) CPC, if it appears to be just and necessary to decide the issue. But, the petitioners did not show sufficient cause for adding them as defendants in the suit, as the suit was filed by the plaintiffs for permanent injunctions and it is incumbent upon the plaintiffs to prove their case. As rightly pointed out by the Trial Court, there was neither relief sought nor averments made as against the petitioners and as such, no necessity arose for impleading them as parties to the suit.

5. In view of the foregoing discussions and observations, this Court is of the view that the finding of the Trial Court is perfectly valid and it does not call for any interference by this Court.

6. In the result,

a) this Civil Revision Petition is dismissed, thereby confirming the order of the learned District Munsif, Thuraiyur dated 14.11.2017 made in I.A.No.1013 of 2017 in O.S.No.194 of 2015;

b) the learned District Munsif, Thuraiyur is directed to dispose of the suit in O.S.No.194 of 2015, within a period of three months from the date of receipt of a copy of this order, by conducting the trial on day-to-day basis without giving any adjournment to either parties and the parties shall cooperate for disposal of the suit within the stipulated time as indicated above.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To:

The District Munsif, Thuraiyur.

C.R.P. (PD) (MD) No.1468 of 2018

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