IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

CRP(PD).No. 4057 of 2010
and
MP.No.1 of 2010

G.Balraj ...Petitioner

vs.

1.Venu

2.Thangapandian

3.Issac

4.The Village Administrative Officer,
Office at Kunnathur,
Sriperumpudur Taluk.

5.The Revenue Inspector,
Office at Kunnathur,
Sriperumpudur Taluk.

6.The Tahsildar,
Sriperumbudur.

7.The District Collector,
Kancheepuram.

8.The Kunnathur Town Panchayat,
Rep. by its Executive Officer,
Kunnathur.

WEB COPY

http://www.judis.nic.in

9.Purushothaman,

10.Rukkammal (Died)

11.Dhanraj

12.Mohan

13.Krishanammal (Died)

14.Manjula

15.Rajammal

16.Mallika

17.Gnanavel

18.Kalyani

19.Sanjeevikumar

20.Saraswathy

21.Savitri

22.Muniyandi

23.Sankar

(RR21 to R23 brought on record
as Lr's of the deceased R10 vide
Court order dated 06.03.2019 made
in CMP.No.18257 of 2018
in CRP(PD).No.4057 of 2010)

24.Manjula

25.Narayanan

(RR24 and R25 brought on record
as Lr's of the deceased R13 vide
Court order dated 06.03.2019 made
in CMP.No.18261 of 2018
in CRP(PD).No.4057 of 2010)

...Respondents

WEB COPY

http://www.judis.nic.in

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order dated 26.02.2010, made in IA.No.1769 of 2008 in OS.No.479 of 2008, on the file of the District Munsif cum Judicial Magistrate Court at Sriperumpudur.

For Petitioner : Mr.Srinath Sridevan

For respondents : Mr.V.Ragavachari for R11, R12, R14 and R16 to R20
M/s.R.Revathi for R8
Mr.P.Shanthirakkeppan for R4
M/s.R.Sripriya for R3
M/s.Avinash Nahwani for R9
R1 – served – No appearance
R21 to R25 – served(AoS filed)
Mr.N.Manikandan,
Government Advocate (CS),
for R5 to R7
R10 & R15 – Died (steps taken)
R2 – Ex-parte in lower court

O R D E R

WEB COPY

This revision petition has been filed as against the order of the trial court in dismissing the application to implead the respondents 10 to 20 therein as party to the suit and rank them as defendants 10 to 20 in the suit.

http://www.judis.nic.in

2. The suit has been originally filed by the plaintiff seeking for permanent injunction as against the defendants 1 to 3 contending that the suit property was owned by the plaintiff's grandfather namely, Murugappa maistry. The suit property was alloted to the plaintiff in a partition between himself and his younger brother. Thereafter, the plaintiff's children continued to live in the suit property till the year 1983 and after that they left the said place.

3. Thereafter, the plaintiff has filed a suit in the year 1997 i.e., after a lapse of 14 years. Originally, the suit was filed for permanent injunction. Thereafter, the plaintiff has sought relief for declaration of his title to the suit property and also for recovery of possession and thereby he has impleaded the defendants 4 to 7 as per the order passed in I.A.No.1702 of 2000, dated 05.09.2002. Again on 12.12.2003, the 3rd, 8th and 9th defendants were impleaded as per the orders passed in I.A.Nos.2184 of 1999, 1486 and 2641 of 2002 respectively.

WEB COPY

4. An application in I.A.No.1769 of 2008 has been taken up by the plaintiff contending that the respondents 10 to 20 in the said application trespassed into the suit property. Considering the pendency of the suit, the said application was dismissed by the trial court on the ground that there was

http://www.judis.nic.in

no details, whatsoever, in the affidavit as to the nature of the trespass or as to when the alleged trespass is made. As against the dismissal of the said I.A.No.1769 of 2008, the present revision petition has been filed.

5. The learned counsel appearing for the petitioner contended that the suit has been filed for declaration of title to the suit property and if the proposed parties are not brought on record, the same will lead to serious consequences. Hence, he prays to set aside the order passed in the said application and to allow the present revision petition.

6. The learned counsel appearing for the respondents contended that the suit itself is not maintainable. Originally, the relief of permanent injunction was sought as against the limited defendants and afterwards many defendants were impleaded by the plaintiff. The plaintiff has filed the suit after a lapse of 14 years and therefore, the suit itself is not maintainable. Further, the learned counsel appearing for the respondents would contend that there are no details, as to whether, the proposed parties in the said application encroached the portion of the suit property or not. According to him, the extent of the suit property is only 60 x 150 feet and without any details as to the nature of the encroachment made by the proposed parties,

WEB COPY

http://www.judis.nic.in

they cannot be brought on record as defendants in the suit. He would submit that the suit is nothing but a vagarious one. Hence, he prays for the dismissal of the present revision petition.

7. Perused the available materials placed on record.

8. No doubt, the plaintiff is entitled to implead any person against whom the relief is sought. But at the same time, when the plaintiff seeks relief against any party, there must be a clarification in his pleadings. The suit itself is filed on the basis of alleged trespass in the year 1983. But no proof was submitted in light of the same.

9. Originally, the relief of permanent injunction was sought by the plaintiff against few defendants, *inter alia*, contending that the suit property is in exclusive possession of the defendants. However, in every stage of the proceedings, the plaintiff has taken various applications to implead number of defendants alleging that they trespassed into the property. Absolutely, there is no detail as to the nature of the trespass, the date of trespass etc. Not stopping with that, he has also filed an application to implead the proposed parties/respondents 10 to 20 in I.A.No.1769 of 2008 as the defendants 10 to 20

WEB COPY

http://www.judis.nic.in

in the suit. Clearly, the application filed by the plaintiff is bereft of details.

10. As rightly contended by the learned counsel appearing for the respondents, the suit itself was filed after a lapse of 14 years. The original suit has been filed for permanent injunction, thereafter, he has sought relief for declaration of his title to the suit property and also for recovery of possession, and then, various amendments and impleadments were made by the plaintiff, which, clearly indicates that in every stage of the case, the plaintiff somehow or other was impleading other parties as defendants. No doubt, only the person against whom the relief is sought can be brought on record as a party. But, at the same time, there must be clear pleadings as to the nature of the encroachment made by them and also as to the relief sought against them.

11. Admittedly, now, the suit for permanent injunction has been converted into the suit for declaration of title and recovery of possession. That being the position, there must be a clear pleading as to the nature of the possession and as to when the defendants encroached the suit property. Without such details, the plaintiff cannot implead the proposed parties as defendants in the suit. The suit itself is filed after a lapse of 14 years for the alleged title of the plaintiff and now, he seeks permission to implead the

WEB COPY

http://www.judis.nic.in

proposed parties as defendants on the ground that they are in possession of the suit property. In fact, such impleadment after a lapse of more than 14 years is certainly impermissible.

12. That being the position, as there is no details as to the nature of encroachment, date of the encroachment, etc., and also taking into consideration, the conduct of the plaintiff in impleading various parties as defendants in the suit and also the pendencies in all such proceedings, I am of the view that the trial court is right in dismissing the said application. However, it is open to the revision petitioner to file a separate suit, if so advised.

13. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

सत्यमेव जयते
WEB COPY

16.04.2019

mbi

Index : Yes / No
Internet: Yes / No
Speaking/Non-Speaking Order

http://www.judis.nic.in

To

1.The Village Administrative Officer,
Office at Kunnathur,
Sriperumpudur Taluk.

2.The Revenue Inspector,
Office at Kunnathur,
Sriperumpudur Taluk.

3.The Tahsildar,
Sriperumbudur.

4.The District Collector,
Kancheepuram.

5.The Kunnathur Town Panchayat,
Rep. by its Executive Officer,
Kunnathur.

6.The District Munsif cum
Judicial Magistrate Court,
Sriperumpudur.

WEB COPY

http://www.judis.nic.in

N.SATHISH KUMAR , J.

mbi

CRP(PD).No. 4057 of 2010
and
MP.No.1 of 2010

WEB COPY

16.04.2019

http://www.judis.nic.in