

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

C.R.P. (NPD) No. 2615 of 2015
and
MP.No.1 of 2015

1.SP.Lakshmanan
2.L.Subramanian
3.L.Lakshmi

... Petitioners

Vs.

1.The District Collector,
Salem
2.The Block Development Officer,
Salem
3.Kannadiraj
4.Govindan

... Respondents

Prayer : Petition filed under Article 227 of the Constitution of India, is filed against the fair and decretal order in I.A.No.620 of 2014 in O.S.No. 522/2013, dated 13.2.2015 passed by the learned II Additional Subordinate Court, Salem and to set aside the same.

For Petitioner : M/S.P.Veena

For R1 : No appearance

For R2 : Mr.V.Subbiah

For RR3 and 4 : Mr.R.Marudhachalamurthy

ORDER

Challenging the impleadment of the respondents 3 and 4 herein,

the petitioner has filed the present revision. It is the grievance of the petitioner

that since impleaded petitioners/respondents 3 and 4 representing on behalf of the entire villagers, the procedure contemplated under Order I Rule 8 of CPC requires to be followed and in the absence of the same, the trial Court is not justified in allowing the impleading petition.

2. The learned counsel for the respondents, on the other hand submitted that the petitioners herein had not filed the application on behalf of the villagers and since the vendor of the petitioners herein had earlier filed a suit against the impleaded petitioners and the suit also came to be dismissed, they are necessary parties to the present suit which has been filed for permanent injunction and the appeal as against the earlier suit was also dismissed. Since, respondents 3 and 4 herein were defendants in the earlier suit, touching upon the same suit property, they are proper and necessary parties in the present suit also and since they are not espousing the cause of entire villagers, the procedure contemplated under Order I Rule 8 of CPC is not required to be followed and the revision is liable to be dismissed.

3. It is the submission made by the learned counsel for the respondents that the earlier suit in O.S.No.633 of 1997 has been filed by the vendor of the petitioners herein against respondents 3 and 4 herein and the appeal against the same has also been dismissed for default. It is stated that the application seeking restoration has also been rejected, as against which the Civil Revision Petition is pending before this Court. These aspects are not in dispute and on perusal of the affidavit filed in support of the application

under Order I Rule 8 of CPC, the respondents 3 and 4 herein had referred to the earlier suit and appeal proceedings and therefore, had stated that they are necessary and proper parties to the suit. Reference is also made in the said application that the public road belongs to 18 villages. Though such a statement is made, the affidavit does not show that they intend to get implead themselves in the present suit on behalf of the entire villagers. When a statement is made that they are espousing the cause of numerous persons having the same interest in the suit, procedures under Order I Rule 8 of CPC would come into play. In the instant case, respondents 3 and 4 intend to be parties to the suit on the ground that they were defendants in the earlier suit filed by the petitioners vendor. The averments made in the affidavit cannot be construed that the respondents 3 and 4 are espousing the cause of entire village. As such I do not find any infirmity in the order passed by the trial Court, in impleading the respondents 3 and 4 as defendants in the suit.

4. Accordingly, this Civil Revision Petition stands rejected. No costs. Consequently, connected miscellaneous petition is closed.

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23.01.2019

Index : Yes/No

Internet : Yes/No

Speaking /non-speaking order

vsn/vsi2

To

II Additional Sub Court,
Salem.



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M.S. RAMESH, J.

vsi2



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