

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2019

CORAM

THE HONOURABLE Mr.JUSTICE **R.PONGIAPPAN**

C.R.P.PD.No.4652 of 2013

and M.P.No.1 of 2013

K.Sellappan

... Petitioner

Vs

1. R.T.Rajendra Naidu

2. The Block Development Officer,
Kolli Hills Panchayat Union,
Semmedu,
Kolli Hills Taluk,
Namakkal District.

3. The President,
Valavanthinadu Village Panchayat,
Kolli Hills Taluk,
Namakkal District.

... Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 19.09.2013, made in I.A.No.207 of 2013 in O.S.No.580 of 2012 on the file of the Additional District Munsif Court, Namakkal by allowing this Civil Revision Petition.

For Petitioners : Mr.R.Vinoth Raja
For Mr.N.Manokaran

For Respondents
For R1 : Mr.M.Gnanamoorthy
For Mr.N.Suresh

For R2 & R3 : No appearance

ORDER

This Civil Revision Petition is directed as against the order passed in I.A.No.207 of 2013 in O.S.No.580 of 2012 on the file of the Additional District Munsif Court, Namakkal.

2. Before the trial Court, the petitioner/plaintiff has filed a suit in O.S.No.580 of 2012, seeking relief of permanent injunction restraining the respondents 2 & 3/defendants 1 & 2 in interfering with his possession and enjoyment of the suit schedule property. During pendency of the suit, the first respondent in this revision petition viz., R.T.Rajendra Naidu, who is the third party to the suit filed an application in I.A.No.207 of 2013 under Order 1 Rule 10(2) of C.P.C., and prayed to implead him to the suit as party. The learned Additional District Munsif, Namakkal after affording due opportunity to the petitioner/plaintiff herein and allowed the application by an order dated 19.09.2013. According to the order passed by the learned Additional District Munsif, Namakkal, the first respondent in this revision petition is necessary party to proceed with the suit. Aggrieved over the said order dated 19.09.2013, the petitioner herein filed this Civil Revision Petition and prayed to set aside the order passed by the learned Additional District Munsif, Namakkal.

3. The learned counsel appearing for the petitioner/plaintiff would contend that before the trial Court, the plaintiff has not prayed any relief as against the proposed party. Further there was no cause of action arose in respect of the first respondent. The learned Additional District Munsif without considering the said fact allowed the application filed by the third party without appreciating the other circumstances.

4. On the other hand, the learned counsel appearing for the first respondent would contend that in the suit schedule property, the proposed party also having equal right as that of the plaintiff is having. So it is necessary to implead the proposed defendant in the said suit as party to the proceedings or to defend the case of the plaintiff.

5. Upon considering the argument advanced by the either side, it is necessary to see that the petitioner/plaintiff has not prayed any relief as against the proposed defendant. Actually, the petitioner filed the suit as against the Government officials for the relief of injunction simpliciter. For availing the said relief, the petitioner has to prove his possession in the suit property. More than that, the said issue has to be decided only at the time of trial. Now going through the area of cause of action is concerned, in the plaint filed by the petitioner, he

has not stated anything as against the proposed defendant. Since there was no allegation against the proposed defendant, the cause of action arisen in the said suit could not be extended up to the level of impleading the proposed defendant. Accordingly, I am of the opinion that there was no cause of action as against the proposed defendant. The trial Court had not entered into the above referred issue and passed the order in favour of the proposed defendant. Hence, the interference of this Court is necessary in the order passed by the learned Additional District Munsif, Namakkal.

6. Accordingly, the Civil Revision Petition is allowed and the order dated 19.09.2013, passed by the learned Additional District Munsif, Namakkal in I.A.No.207 of 2013 in O.S.No.580 of 2012 is hereby set aside. Consequently, connected miscellaneous petition is closed. No costs.

Index :Yes/No
Internet :Yes/No
Speaking order/Non-speaking order

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To

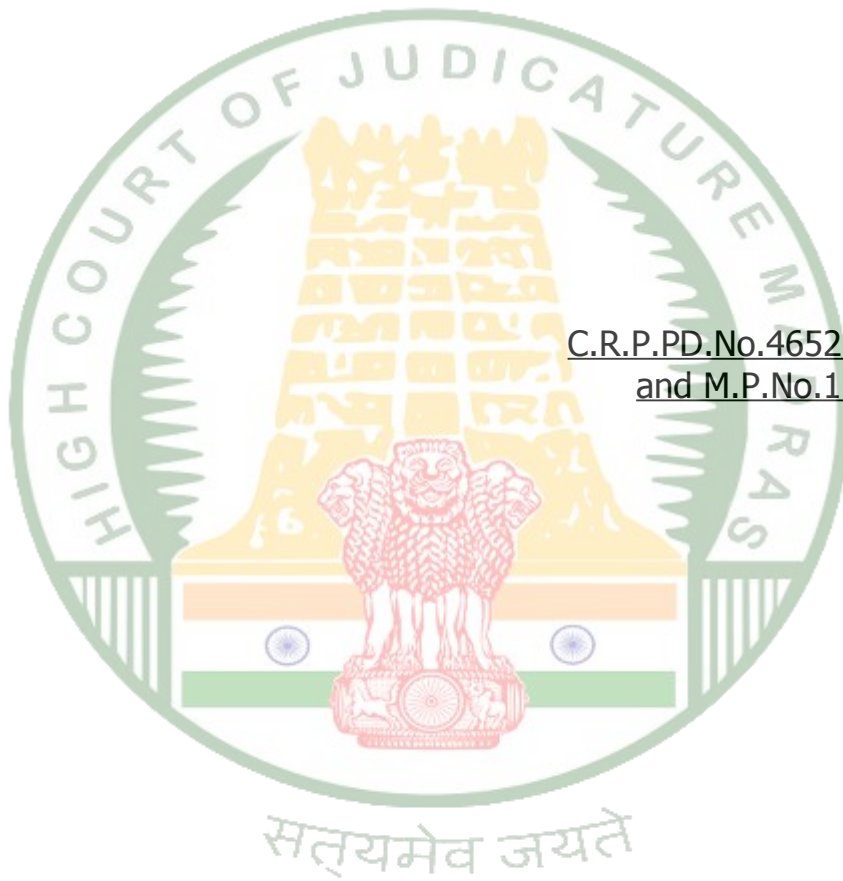
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R.PONGIAPPAN, J.

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