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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 12.03.2019

DELIVERED ON : 15.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No.2034 of 2015

and

M.P. (MD) No.1 of 2015

T.Sundarapandiyan

.. Petitioner/Petitioner/Defendant

Vs.

1.Thoothukudi City Municipal Corporation,
Through its Commissioner,
Thoothukudi.

2.Secretary to Government,
Municipal Administration and Water Supply Department,
Chennai.

3.Member Secretary,
Thoothukudi Local Planning Authority,
Thoothukudi.

4.Director of Town and Country Planning,
807, Anna Salai,
Chennai.

.. Respondents/Respondents 2 to 4/
Proposed defendants

Prayer: This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair order dated 04.08.2015 passed in I.A.No.743 of 2014 in O.S.No.348 of 2010 on the file of the Additional District Munsif Court, Thoothukudi.

For Petitioner : Mr.K.Chengiz Khan

For 1st Respondent : Mr.Saji Bino

For Respondents 2 to 4 : Mr.J.Gunaseelan Muthaiah, AGP

ORDER

Heard Mr.K.Chengiz Khan, learned counsel appearing for the petitioner and Mr.Saji Bino, learned counsel appearing for the first respondent, and Mr.J.Gunaseelan Muthaiah, learned Government Advocate appearing for the respondents 2 to 4.



2.This Civil Revision Petition has been filed against the order passed in I.A.No.743 of 2014 in O.S.No.348 of 2010 dated 04.08.2015 on the file of the Additional District Munsif Court, Thoothukudi.

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3.The petitioner herein is the defendant, the first respondent herein is the plaintiff and the respondents 2 to 4 herein are the proposed defendants in the suit. The first respondent herein has filed a suit in O.S.No.348 of 2010 for a prayer of injunction against the defendant for putting up any unauthorised construction in the schedule property and for mandatory injunction. In that suit, the petitioner has filed a petition in I.A.No.743 of 2014 to implead the respondents 2 to 4 as the defendants 2 to 4 in the suit. The petition was dismissed by the trial Court. Against the order of dismissal, the petitioner has come forward with this revision petition.

4.On the side of the petitioner, it is stated that the first respondent filed a suit against the petitioner stating that the petitioner obtained an approval for construction of three floor building but he has constructed a seven floor building and that the Corporation has no locus standi to question the petitioner cast and for construction above 2000 sq. ft., the Corporation has no right to issue authorisation and the petitioner has filed a revised plan for approval. The Director of Town and Planning Authority, Chennai, Member Secretary of Local Planning Authority and Secretary to Government are necessary parties to the suit. The petitioner filed a petition to implead them as parties and the petition was dismissed and that only the Member Secretary is having locus standi to question the petitioner.

5.On the side of the respondents, it is stated that there is no such contention raised by the petitioner in the written statement. Even in the counter affidavit, the petitioner has not pleaded any question regarding the locus standi. The building permission can be granted by the Local Planning Authority, if the building is over 2000 sq. ft. But the petitioner has obtained planning approval from the first respondent and it is the duty of the petitioner to construct the building in accordance with the plan and if there is any diviation in the plan, the first respondent is having the locus standi to question the same. If the petitioner seek planning approval from the Town Planning Authority, he has to obtain the same before doing the construction work and not after the same. It is stated that the petitioner has not filed any document in support of his claim.

6.On the side of the petitioner, it is stated that legal points can be raised at any point of time and the planning approval was dismissed by the proposed respondents 2 and 3 and the appeal is pending before the fourth respondent.



7. The contention of the petitioner is that the petitioner has obtained a planning permission from the first respondent and there are deviations in the construction from the approved plan. It is stated that the petitioner has approached the respondents 2 and 3 for approval of the unauthorised construction by way of a revised plan and the same was rejected by the respondents 2 and 3. The appeal against the rejection is pending before the fourth respondent and to prove those things, the respondents 2 to 4 are to be impleaded as defendants in the suit. It is stated that impleading these respondents as defendants 2 to 4 will avoid multiplicity of cases.

8. It is the duty of the petitioner to prove his case. Admittedly the petitioner has constructed the six storey building whereas approval was given only for construction of three storey building and the petition filed by the petitioner for approval of revised plan was rejected by the respondents 2 and 3. The petitioner can prove all these things through documents and there is no necessity for the respondents 2 to 4 to be impleaded in this case. It is stated that the appeal against the rejection of revised plan is pending before the fourth respondent. This facts can be proved through documents and through witness. Impleading the Government agencies for each and every case is not necessary and if the petitioner can establish that the first respondent has no locus standi to file the suit, he has to prove the same before the trial Court and he cannot insist upon the first respondent to implead the respondents 2 to 4 as defendants 2 to 4 in the suit.

9. In the above circumstances, there is nothing sufficient enough to interfere in the order passed by the trial Court. This Civil Revision Petition is dismissed by confirming the order passed in I.A.No.743 of 2014 in O.S.No.348 of 2010 dated 04.08.2015 on the file of the Additional District Munsif Court, Thoothukudi. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Additional District Munsif, Thoothukudi.

C.R.P. (PD) (MD)No.2034 of 2015
15.04.2019