



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 11.03.2019

DELIVERED ON :27.04.2019

WEB COPY

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No.2423 of 2015

and

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

V.Murugan

.. Petitioner/Respondent
Plaintiff

Vs.

1.K.Ganesan

..1st Respondent/Petitioner
Third Party

2.M.Lakshmi

.. 2nd Respondent/ 2nd Respondent
Defendant

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 08.07.2015 made in I.A.No.44 of 2015 in O.S.No.183 of 2014 on the file of the learned District Munsif, Srivaiguntam, Thoothukudi District.

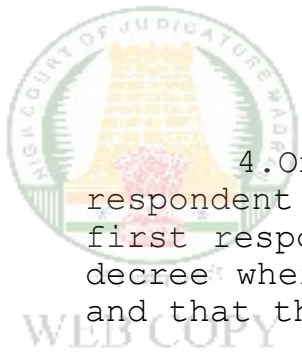
For Petitioner	: Mr.S.Vinayak
For 1 st Respondent	: Mr.R.T.Arivu Kumar
For 2 nd Respondent	: No Appearance

ORDER

Heard Mr.S.Vinayak, learned counsel appearing for the petitioner and Mr.R.T.Arivu Kumar, learned counsel appearing for the first respondent.

2.This Civil Revision Petition has been filed against the order passed in I.A.No.44 of 2015 in O.S.No.183 of 2014 dated 08.07.2015 on the file of the learned District Munsif, Srivaiguntam, Thoothukudi District.

3.The petitioner herein is the plaintiff, the first respondent herein is the third party and the second respondent herein is the defendant in the suit. The petitioner has filed a suit in O.S.No.183 of 2014 for a prayer of declaration and injunction against the second respondent herein. In that suit, the first respondent filed a petition in I.A.No.44 of 2015 for impleading himself as the second defendant and the petition was allowed by the trial court. Against which, the petitioner has filed this revision petition.



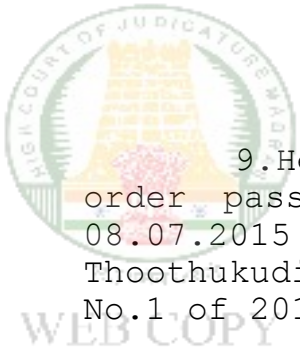
4. On the side of the petitioner, it is stated that the first respondent has filed the impleading petition on the ground that the first respondent filed a suit against the petitioner and obtained a decree whereas the properties involved in both suits are different and that the first respondent is an unnecessary party in the suit.

5. On the side of the first respondent, it is stated that the petitioner and the second respondent are brother and sister and the property was gifted to the second respondent by her father and the second respondent sold the property to the first respondent and in the written statement of the first respondent, he has stated that the second respondent sold the property to the first respondent and the property is situated south to the common wall. Even though the first respondent has obtained a decree of injunction, the petitioner has destroyed the wall and that the E.P. is still pending. Now the petitioner and the second respondent colluded together and filed a suit and the first respondent is a necessary party in the suit.

6. On the side of the first respondent, it is stated that the Court has discretion to add a person as a party who is found to be necessary party. In support of his contention, the Judgment passed by this Court in the case of Cascade Energy Ptd. Ltd and others v. Union of India and others reported in 2018 (3) CTC 345 is cited.

7. On the side of the petitioner, it is stated that E.P. proceedings were already over.

8. It is seen that the second respondent and the petitioner are sister and brother respectively and on 20.09.1993, the first respondent purchased the shop in shop no.45 in survey no.892/1 and on 03.02.1997, the first respondent and his brother have executed a release deed and on 21.06.2001, the first respondent's brother Kesavan executed a sale deed in favour of the first respondent. The suit is between the petitioner and the second respondent. Admittedly the petitioner and the second respondent are brother and sister and the first respondent is claiming title over the property through the second respondent. It is further stated that there is a common wall in the property. In the suit in O.S.No.183 of 2014, the door number of the shops are mentioned as 2 and 3. In the written statement filed by the second respondent, it is admitted that she has sold the property to the first respondent and the northern wall of the property is a common wall. Even in this suit, half of the southern wall is described as a boundary when there is a common wall and when the first respondent have an impression that there may be collusion between the petitioner and the second respondent, a reasonable opportunity for the first respondent to put forth his case is to be given. In the above circumstances, the first respondent is a necessary party. There is nothing sufficient enough to interfere in the order passed by the trial Court.



9.Hence, this Civil Revision Petition is dismissed and the order passed in I.A.No.44 of 2015 in O.S.No.183 of 2014 dated 08.07.2015 on the file of the learned District Munsif, Srivaiguntam, Thoothukudi District is confirmed. No Costs. Consequently, M.P.(MD) No.1 of 2015 is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1.The District Munsif, Srivaiguntam, Thoothukudi District.

+1 CC to M/s.A.THIRUVADI KUMAR, Advocate (SR-63496[F] dated 27/04/2019)

C.R.P. (PD) (MD)No.2423 of 2015

DS (CS) : 08/05/2019/3P/3C