



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

C.R.P (MD) No.1171 of 2019
and
C.M.P. (MD) .No.6415 of 2019

N.Ramakrishnan

.. Petitioner/
Proposed 5th defendant

Vs.

1.P.Ganapathi Subramanian Muthusamy

.. 1st Respondent/
Plaintiff

2.Tuticorin Corporation,
through its Commissioner,
Palayamkottai Road,
Tuticorin,
Tuticorin District.

3.West Zone of Tuticorin Corporation,
through its West Zone Deputy Commissioner,
Tuticorin,
Tuticorin District.

4. Maintenance and Water
Supply Department (Planning),
through its Executive Engineer,
Tuticorin Corporation,
Palayamkottai Road,
Tuticorin,
Tuticorin District.

5.Albi John Warkis,
Commissioner of Tuticorin Corporation,
Palayamkottai Road,
Tuticorin, Tuticorin District.

.. Respondents 2 to 5/
Defendants 1 to 4

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order, dated 21.12.2018 in I.A.No.1115 of 2018 in O.S.No.217 of 2018 passed by the learned Principal District Munsif, Tuticorin.



For Petitioner : Mr.B.Rajesh Saravanan
For Respondents : Mr.R.J.Karthick
For R1.

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O R D E R

This Civil Revision Petition is filed against the fair and decreetal order, dated 21.12.2018 in I.A.No.1115 of 2018 in O.S.No.217 of 2018 passed by the learned Principal District Munsif, Tuticorin.

2. Heard the learned counsel appearing for the petitioner as well as the first respondent and perused the materials available on record.

3. The first respondent herein filed a suit in O.S.No.217 of 2018 on the file of the learned Principal District Munsif, Tuticorin, as against respondents 2 to 5, for the relief mandatory injunction and to direct the defendants 2 to 4 to give water connection to the house situated in Tuticorin Corporation, Tabal Thanthi Kudi Iruppu, near South Asirvatha Nagar at Madathur Road, bearing D.No.2F/1476 and 2F/1476-A. During the pendency of the suit, the petitioner herein filed an application under Order 1 Rule 10 (2) C.P.C. praying to implead him as 5th defendant in the suit.

4. Now, on go through the averments made in the grounds, it was contended by the petitioner that he denied the title having by the first respondent. Further, he would contend that the connected suits in O.S.Nos.220 and 222 of 2005, filed by the first respondent herein, in respect to the title of the suit properties is pending before the competent forum. In the said circumstances, he prayed, if the suit pertaining to this petition filed by the first respondent is disposed without impleading him as a party to the proceedings, there may be a chance for arising further litigation between the petitioner and the first respondent. Hence, he prays to set aside the impugned order passed in I.A.No.1115 of 2018.

5. However, on go through the order passed by the learned Principal District Munsif, Tuticorin, in I.A.No.1115 of 2018, the petitioner herein / proposed fifth respondent given up his right through a gift deed, dated 17.06.1992, and thereby, he is not a necessary party to the suit. Further, in the said circumstances, it is necessary to see that the suit filed by the first respondent pertaining to this Civil Revision Petition is only for a direction to the respondents 2 to 4 for giving a water connection to his house, which is situated in the address mentioned above. So, if the petitioner is having any grievance in the said prayer, he is having the right to approach the defendants 2 to 4 and to file his

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objection. Instead of making objection before the competent authority, without any cause of action, filing the application for impleading him as a party to the proceedings is unnecessary. By holding the correct view, the trial has dismissed the said interlocutory application. There is no irregularity or illegality in the order passed by the trial Court. Accordingly, I am also having the considered view that the petitioner is not a necessary party to the proceedings.

6. Hence, for the reasons stated above, this Civil Revision Petition stands dismissed with liberty to the petitioner to work out his remedy in the manner known to law before the competent forum. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal District Munsif,
Tirunelveli.
2. The Principal District Munsif,
Tuticorin.

Copy to:

The Section Officer, (2 Copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.B.RAJESH SARAIVANAN, Advocate (SR-76793[F] dt.23/07/2019

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-76836[F] dated 23/07/2019)

C.R.P (MD) No.1171 of 2019
22.07.2019

PJL

JMN(13.08.2019) 3P : 7C