

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).No.4805 of 2011

and

M.P.No.1 of 2011

N.Narayana Reddy

...Petitioner/
Proposed 3rd Defendant

Vs.

1.Suresh Babu

...1st Respondent/
Plaintiff

2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Dharmapuri District @ Dharmapuri Divisional.

3.The Assistant Engineer
represented by Tamil Nadu Electricity Board,
Denkanikottai, Hosur Taluk,
Dharmapuri District.

...Respondents/
Defendants

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order made in I.A.No.615 of 2010 in O.S.No.118 of 2010, dated 10.08.2011, on the file of the District Munsif Court cum Judicial Magistrate Court at Denkanikottai, Dharmapuri District.

For Petitioner : Mr.K.V.Sundararajan
For R1 : No appearance
For R2 & R3 : Mr.S.Jaganathan
Government Advocate

ORDER

The Civil Revision Petition has been filed against the order passed by the learned District Munsif cum Judicial Magistrate, Denkanikottai, Dharmapuri District, in I.A.No.615 of 2010 in O.S.No.118 of 2010, dated 10.08.2011.

2 Third party in the suit O.S.No.118 of 2010 is the revision petitioner herein.

3 Brief facts of the case are as follows:

(i) The first respondent herein has filed a suit in O.S.No.118 of 2010 before the learned District Munsif - cum - Judicial Magistrate, Denkanikottai, for relief of mandatory injunction and permanent injunction against the Tamil Nadu Electricity Board, on the footing that he is the owner of the suit schedule property.

(ii) During the pendency of the suit, the revision petitioner has filed an application in I.A.No.615 of 2010, before the learned District Munsif cum Judicial Magistrate, Denkanikotta, alleging that the suit property is the subject matter of the earlier suit in O.S.No.123 of 1960 and there was a judgment and decree in the said suit. As against the judgment in O.S.No.123 of 1960, five appeals were preferred in A.S.Nos.159 of 1987, 198 of 1988, 160 of

198, 22 of 1989 and 55 of 1989 by both the plaintiff and defendants in the said suit viz., O.S.No.123 of 1960. Wherein, A.S.No.159 of 1987 has been filed by the father of the revision petitioner. On the death of the father of the revision petitioner, the revision petitioner being the son, stepped into the shoes of his father as legal representative and conducted the cases. The said five appeals were disposed of on 25.11.2010.

(iii) As against the order passed in A.S.Nos.159 of 1987, 198 of 1988, 160 of 198, 22 of 1989 and 55 of 1989, both the plaintiff and defendants have filed five Second Appeals, which are pending before this Court.

(iv) The revision petitioner has also filed IA.No.71 of 2009 in A.S.No.159 of 1988, wherein, by an order dated 25.11.2010, at that instance, the patta issued in the name of the first respondent herein/plaintiff was cancelled and hence, the revision petitioner has filed the said application viz., I.A.No.615 of 2010, to implead himself as third defendant in the suit, wherein, the revision petitioner has stated that he is having interest in the suit property and the plaintiff/first respondent herein has purchased the same during the pendency of lis. viz., the above suit and Second Appeals. However,

the Trial Court has erroneously dismissed the petition. As against the same, the revision petitioner has preferred this Civil Revision Petition before this Court.

4 Taking into consideration, the factual matrix of the case as narrated above and also pendency of the suit, it appears that the plaintiff in the suit has purchased the property seeking electricity connection, in which, the plaintiff has a say over the matter as a co-owner of the property and hence, this Court finds that he is a proper and necessary party for adjudication.

5 The learned District Munsif cum Judicial Magistrate is directed to implead revision petitioner as third defendant in the suit O.S.No.118 of 2010, by allowing I.A.No.615 of 2010. Thereafter, the written statement should be file within a period of two weeks from the date of receipt of a copy of this order and the Lower Court is accepted to give notice to all the parties concerned and further the learned District Munsif cum Judicial Magistrate, Denkanikottai, is directed to dispose of the suit O.S.No.118 of 2010 within a period of 12 weeks from the first hearing date.

6 In the result, the Civil Revision Petition stands dismissed and the order passed by the learned District Munsif cum Judicial Magistrate, Denkanikottai, Dharmapuri District, in I.A.No.615 of 2010 in O.S.No.118 of 2010, dated 10.08.2011, is hereby set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

18.02.2020

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Speaking Order: Yes/No

To

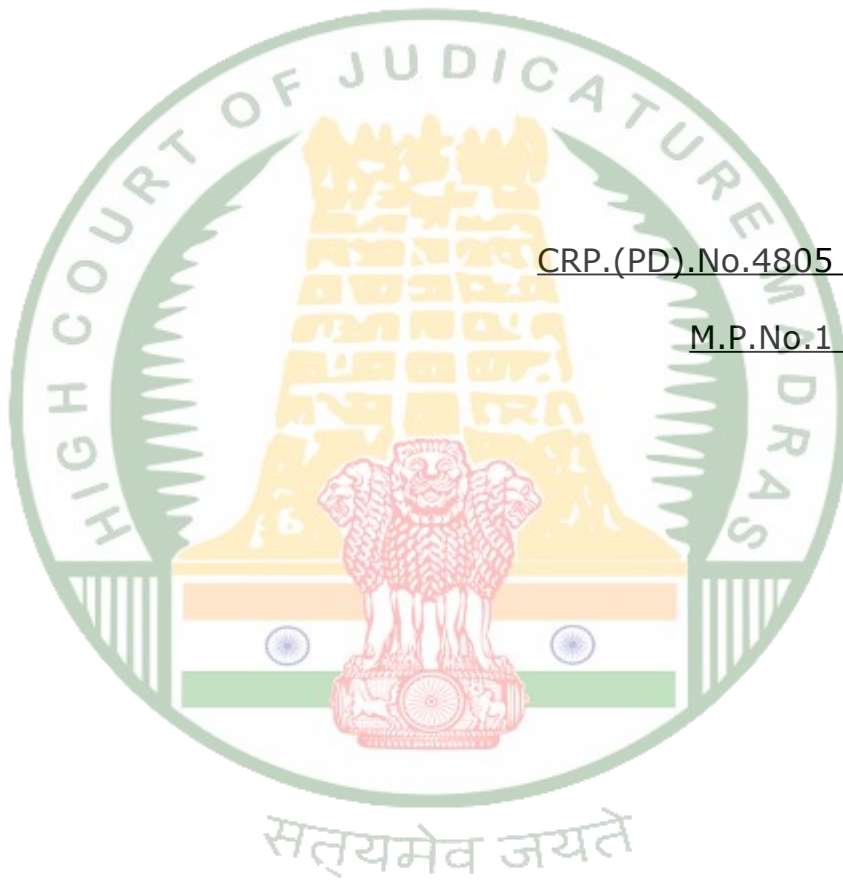
The District Munsif Court cum
Judicial Magistrate Court,
Denkanikottai,
Dharmapuri District.

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