



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.03.2020
CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

WEB COPY

C.R.P. (PD) (MD) Nos.2026 and 2027 of 2017 (PD)
and
C.M.P. (MD) .Nos.10133 and 10134 of 2017

L.K.Sudalaikannu Devar ... Petitioner/1st Respondent/Plaintiff
in both C.R.Ps
vs.

1.Velu ... 1st Respondent/Petitioner/Proposed
2nd Defendant in both C.R.Ps

2.Nachiar ... 2nd Respondent/2nd Respondent/Original
Defendant in the suit in both C.R.Ps

PRAYER in C.R.P. (MD) .No.2026 of 2017 (PD): This Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.11.2016 passed in I.A.No.674 of 2014 in O.S.No.624 of 2014 on the file of the II Additional District Munsif Court, Tirunelveli.

PRAYER in C.R.P. (MD) .No.2027 of 2017 (PD): This Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.11.2016 passed in I.A.No.675 of 2014 in I.A.No.672 of 2014 in O.S.No.624 of 2014 on the file of the II Additional District Munsif Court, Tirunelveli.

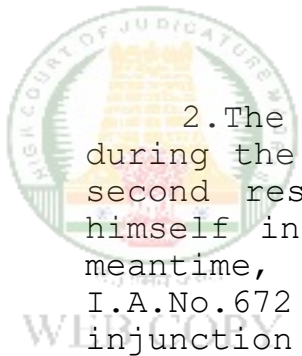
For Petitioner : Mr.V.Meenakshisundaram
for Mr.D.Nallathambi

For R1 & R2 : No appearance in CRP (MD) No.2027/2017

For R1 : Mr.K.R.Laxman in CRP (MD) No.2026/2017

COMMON ORDER

The petitioner/plaintiff has filed a suit in O.S.No.624 of 2014 against the second respondent herein before the II Additional District Munsif, Tirunelveli, for bare injunction. During the pendency of the said suit, the first respondent herein filed I.A.Nos.674 and 675 of 2014 to implead himself as second defendant in the said suit. The learned II Additional District Munsif, Tirunelveli, has allowed the said I.As and directed to implead the first respondent herein into the suit as the second defendant. Challenging the said order, the plaintiff has approached this Court by way of these civil revision petitions.



2.The learned counsel for the petitioner would submit that during the pendency of the suit filed by the petitioner against the second respondent, the first respondent filed I.As., to implead himself into the suit, is no way connected with the suit. In the meantime, the petitioner herein/plaintiff has filed a petition in I.A.No.672 of 2014 for ad-interim injunction as well as temporary injunction against the second respondent. He further submitted that absolutely, the first respondent is not a necessary party to decide the suit and no relief has been sought for against him. Therefore, the trial Court failed to consider the nature of the suit filed and passed the order to implead the first respondent, which warrants interference by this Court.

3.The learned counsel for the first respondent/proposed defendant would submit that now the suit property is in his possession and he is enjoying the same and now, the petitioner and the second defendant, who is none other than the sister of the wife of the petitioner colluded with each other, in order to get corroborate the issue, they have filed the said petition and therefore, since the first respondent is now enjoying the suit schedule property, he has to be impleaded in the suit. Therefore, the first respondent is a necessary party in the suit and there is no error in the order passed by the trial Court. Hence, the revisions are liable to be dismissed.

4.I have perused the materials available on record.

5.Admittedly, though the petitioner filed a suit for bare injunction against the second respondent, he has not sought any relief for declaration and recovery of possession. Under these circumstances, though the petitioner has got an order of injunction against the second respondent and if the first respondent/proposed party is in possession of the property, the decree will not bind him. Therefore, further any of the relief sought for in the suit will not affect the right and enjoyment of the first respondent/proposed party. Under these circumstances, the order of the trial Court warrants interference.

6.In the result, the civil revision petitions are allowed and the order of the trial Court dated 09.11.2016 is set aside. However, the first respondent is at liberty to workout remedy to safeguard his interest and right in the manner known to law. Consequently, connected miscellaneous petitions are closed.

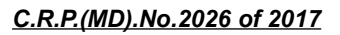
Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar (CS)



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