

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP(PD).Nos.4553 and 4554 2015

CRP(PD).No.4553 of 2015

Narashimman

... Petitioner

Vs.

1. P.Prabu Sankar

2. R.Mylathal

3. The Tahsildar (North Taluk),
North Taluk Office,
Coimbatore.

4. The Assistant Commissioner – East,
City Municipal Corporation,
Singanallur,
Coimbatore.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order passed in I.A.No.2255 of 2015 in O.S.No.1081 of 2015 on the file of the Principal District Munsif, Coimbatore dated 07.10.2015.

For Petitioner : Mr.V.Sivakumar

For Respondents : Mr.S.Saravanan (for R1)

: Notice Served (for R2)

: Mr.S.Jaganathan

Government Advocate (CS) (for R3)

: Mr.K.Magesh

Senior Counsel (for R4)

CRP(PD).No.4554 of 2015

Narashimman

... Petitioner

Vs.

1. P.Prabu Sankar

2. R.Mylathal

3. The Tahsildar (North Taluk),
North Taluk Office,
Coimbatore.

4. The Assistant Commissioner – East,
City Municipal Corporation,
Singanallur,
Coimbatore.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order passed in I.A.No.2256 of 2015 in I.A.No.1369 of 2015 in O.S.No.1081 of 2015 on the file of the Principal District Munsif, Coimbatore dated 07.10.2015.

For Petitioner : Mr.V.Sivakumar

For Respondents : Mr.S.Saravanan (for R1)

: Notice Served (for R2)

: Mr.S.Jaganathan

Government Advocate (CS) (for R3)

: Mr.K.Magesh

Senior Counsel (for R4)

COMMON ORDER

CRP(PD).No.4553 of 2015 is directed as against the fair and decretal order passed in I.A.No.2255 of 2015 in O.S.No.1081 of 2015 dated 07.10.2015 on the file of the learned Principal District Munsif, Coimbatore, thereby, dismissing the petition to implead the proposed respondents as defendants, in the suit

2. CRP(PD).No.4554 of 2015 is directed as against the fair and decretal order passed and I.A.No.2256 of 2015 in I.A.No.1369 of 2015 in O.S.No.1081 of 2015, respectively dated 07.10.2015 on the file of the learned Principal District Munsif, Coimbatore, thereby, dismissing the petition to implead the proposed respondents as defendants, in the Interlocutory Application.

3. In both the Civil Revision Petitions, the petitioner is the first defendant and the first respondent is the plaintiff. The first respondent/plaintiff filed the suit for permanent injunction restraining the petitioner and second respondent herein from interfering with the peaceful

possession and enjoyment of the suit property and also by preventing the first respondent from exercising his common right in using common East-West and North-South pathways either by encroaching or blocking or obstructing the said common pathways. While pending the suit, the petitioner herein filed a petition to implead the respondents 3 and 4 as defendants 3 and 4 in the suit as well as Interlocutory Application.

4. On a perusal of the affidavit filed in support of the implead petitions, it reveals that the suit property is situated in T.S.No.1376/5, Kalapatty Village East, Coimbatore North Taluk, whereas, the petitioner's property is situated adjoining to the first respondent's house on the Eastern side in T.S.No.1376/7. Both of them have to reach their respective houses only through East-West 11 feet common pathway situated in T.S.No.1376/6. It belongs to the Government and maintained by the proposed respondents 3 and 4 herein. According to the first respondent, the petitioner encroached the common pathway for the purpose of extending the door steps. If at all the said allegations are proved, the proposed respondents 3 and 4 have right to remove the encroachment made by the petitioner herein. Therefore, they are necessary parties to the present suit and also it

would help the Court below to decide the issue. The Court below dismissed the petitions for the reasons that the proposed parties being Government could remove encroachment. Therefore, the proposed parties are not necessary and proper parties to the suit.

5. As stated above, admittedly the common pathway is not belonging to either the petitioner or the first respondent herein and belong to the Government and maintained by the respondents 3 and 4 herein. If at all there is encroachment, they can very well take steps to remove the encroachment in the common pathway. Therefore, this Court felt that they are necessary parties to decide the main issue in the suit as well as Interlocutory Application.

6. In view of the above discussion, these Civil Revision Petitions are allowed and the orders passed in I.A.No.2255 of 2015 in O.S.No.1081 of 2015 and I.A.No.2256 of 2015 in I.A.No.1369 of 2015 in O.S.No.1081 of 2015, respectively dated 07.10.2015 are set aside. No costs.

18.03.2021

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Speaking/Non-speaking order
Index : Yes/No

kv

G.K.ILANTHIRAIYAN,J.

kv

To

1. The Principal District Munsif, Coimbatore.
2. The Section Officer,
V.R.Section, High Court of Madras.
3. The Tahsildar (North Taluk),
North Taluk Office,
Coimbatore.
4. The Assistant Commissioner – East,
City Municipal Corporation,
Singanallur,
Coimbatore.

CRP(PD).Nos.4553 and 4554 2015

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