

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P.No. 796 of 2021 and
C.M.P.No.6669 of 2021

A.D. Murugan

... Petitioner

Vs.

1.H.M. Foundations Private Limited,
Rep. by its Authorized Signatory, Mr.Ashok Dhanraj,

2. K.Vasantha

... Respondents

Prayer:

Civil Revision Petition is filed under Article 227 of the Civil Procedure Code, to set aside the order dated 15.12.2020 in I.A. No.7 of 2019 in O.S.No.3116 of 2019 on the file of XVI Assistant City Civil Court, Chennai.

For Petitioner : Mr.K.N.Nataraj

For Respondents : No Appearance

ORDER

The plaintiff in O.S.No.3116 of 2019, now pending with the XVI Assistant City Civil Court, Chennai, is the revision petitioner herein.

2. The suit in O.S.No.3116 of 2019 has been filed by the plaintiff viz., A.D. Murugan against the defendant Mrs. K.Vasantha seeking permanent injunction restraining the defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit property, either by forcible eviction or otherwise, except by due process of law and also for the costs of the suit.

3. The plaintiff claims that he has been a tenant in the suit property, which is a vacant land bearing Old Door No.638, New No.682, Poonamallee High Road, Ponnuvel Pillai Thootam, Chinnakoodal Village, Aminjikarai, Chennai - 600 029, measuring

an extent of 5 ground 480 sqft. The plaintiff claims that the parties to the proceedings had entered into a rental agreement from 08.01.2010 and the rental agreement had also been renewed by the defendant Mrs.K.Vasantha. The plaintiff claims that he has been regularly paying the monthly rent of Rs.20,000/- without any default. However, the plaintiff further claims that, on 10.05.2019, the defendant had threatened to dis-possess the plaintiff, and hence the suit had been filed seeking the relief as stated above.

4. A written statement had also been filed by the defendant. The defendant had stated that she has no intention of evicting the plaintiff from the possession of the plaintiff's property without due process of law.

5. When the suit is pending, I.A.No.7 of 2019 came to be filed by a third party namely, M/s.H.M.Foundation Private Limited. In the said application, the said third party claimed that they had purchased the entire property in the year 2015 itself and were also in possession and according to the third party, there is a possibility of marking forged documents before the Court below. As a matter of fact, the proposed defendant/third party had also allegedly cleared the bank loans obtained by the defendant. Thereafter, steps also had been taken and the third party is alleged to have purchased the suit property and claims to be in possession of the property.

6. The said application in I.A.No.7 of 2019 came to be allowed by the learned trial Judge, by giving credible reasons, permitting impleadment of the proposed defendant/third party under the provisions of Order 1 Rule 10 (2) of CPC. It had been stated that without the presence of the said third party's, adjudication regarding cannot be determined and that they are a necessary party to the suit proceedings.

7. The learned counsel for the plaintiff stated that the suit had been filed for possession being interfered without due process of law. It had been stated that if the said third party comes into the picture as the second defendant, then he may claim title without paying any Court fees. It is the further case of the plaintiff that his rights would be defeated.

8. I find that the original defendant had suppressed vital information, wherein claims were pending before the Debts Recovery Tribunal with respect to loans obtained from the Indian Bank and the said third party had cleared the loans and had also purchased the property in the year 2015 itself even prior to the suit.

9. When once there are allegations of suppression raised by the proposed defendant, then they will necessarily have to be impleaded to clear such allegations.

10. As per Order 1 Rule 5 of the Code of Civil Procedure, a person can be impleaded as a defendant even though he may not be directly interested in the 'lis'.

11. I do not find any reason to interfere with the order of the learned Judge, who had allowed an I.A.No.7 of 2019 holding that the proposed party is a necessary defendant. As a purchaser of the property, even prior to the suit, they are a necessary party and will have to be necessarily impleaded so as to participate in the trial proceedings.

12. Thus, I do not find any infirmity in the order passed by the Court below. Hence, the Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, conncted Miscellaneous Petition is closed. However, it is made clear if any judgment is passed in favour of the plainitff herein, then it will also bind the proposed third party/impleaded second defendant.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

msm

To

The XVI Assistant Judge
City Civil Court, Chennai.

+1 CC to Mr.K.N. Nataraj, Advocate sr 22670.

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