

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.1672 of 2021
and CMP No. 12938 of 2021**

1.B.Murugan

...Petitioner

Vs.

1. N.Kannaiyan

2. K.Govindan

3. M.Masilamani

4. Kalaimani

5. The Executive Engineer,
Tamilnadu Slum Clearance Board,
Salem Taluk,
Salem District.

6. The Electricity Board,
Thumvagoundam,
Salem Taluk,
Salem District.

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.02.2021 made in IA.No.01 of 2019 in O.S.No.787 of 2015, on the file of the learned III Additional District Munsif, Salem.

For Petitioner : Mr. C.Prabakaran

ORDER

This Civil Revision Petition is filed, to set aside the fair and decreetal order dated 05.02.2021 made in IA.No.1 of 2019 in O.S.No.787 of 2015, on the file of the learned III Additional District Munsif, Salem.

2.The I.A.No.1 of 2019 was filed under 1 Rule 10 and under Section 151 of CPC, for impleading the proposed parties as defendants 4 to 6 in O.S.No.787 of 2015. The reason attributed for this petition is that the Slum Clearance Board has allocated the common pathway for public and the Tamil Nadu Electricity Board has given electricity connection to one Kalaimani, through the common pathway, and the said Kalaimani is not a party to the suit. Therefore, the proposed parties have to be impleaded for effective adjudication of the case. This petition was dismissed by the learned III Additional District Munsif, Salem by its order dated 05.02.2021.

3.The learned counsel for the petitioner submitted that the petitioner filed a suit seeking the relief of mandatory injunction. During the pendency of the suit, one Kalaimani was given electricity connection to his house by putting an electric pole and that electric pole causes hindrance to the free usage of common pathway. Therefore, the proposed parties have to be

impleaded as defendants 4 to 6. However, the learned trial Judge has not considered this aspect and dismissed the impleading petition.

4.The facts of this case shows that the suit was filed, claiming that the suit property is a common lane and an electric pole is laid for taking electricity connection to one Kalaimani, in this common lane. It is a common knowledge that Electricity Department is entitled to follow certain procedure to lay poles, in order to give electricity service connection to the users. Even according to the case of the petitioner, the suit lane is a common pathway of the petitioner and the respondents. Therefore, no way it can be said that the steps taken by the Electricity Department to lay the pole in the suit property is illegal. The only thing, they have to take care is the right of the parties for free ingress and egress to their suit property, while laying the electricity pole.

5.Therefore, this Court is of the considered view that impleadment of the proposed parties is not necessary in the facts of this case. If the petitioner feels that if there is any disturbance, due to laying of such electricity pole, he can very well summon witnesses from the Electricity Department as a witness on his side to prove the case. The impleading of the proposed parties is not necessary and this Court finds no reason to interfere

with the order dated 05.02.2021 made in IA.No.1 of 2019 in O.S.No.787 of 2015, passed by the learned III Additional District Munsif, Salem.

6.Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

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19.08.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To
1.The Additional District Munsif, Salem.
2.The Section Officer
VR Section,
High Court of Madras.



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G.CHANDRASEKHARAN.J,

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