



WEB COPY



C.R.P.(PD)No.1341 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1341 of 2016
and C.M.P.No.7541 of 2016

Swati @ Nagina

.. Petitioner

Vs.

1.P.Sanjay Kumar Bagmar

2.Rajesh Kumar Bagmar

..

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constiution of India, against the order dated 08.02.2016 made in I.A.No.6301 of 2015 in O.S.No.5449 of 2013 on the file of the VI Assitant City Civil Court, Chennai.

For Petitioner : Mr.M.Habeeb Rahman
for Mr.A.Edwinprabakar

For respondents : Mr.G.Saravanan for R1



C.R.P.(PD)No.1341 of 2016

WEB COPY

ORDER

(This matter is heard through “video conferencing”)

This Civil Revision Petition is filed against the judgment and decree dated 08.02.2016 made in I.A.No.6301 of 2015 in O.S.No.5449 of 2013 on the file of the VI Assistant City Civil Court, Chennai.

2.The petitioner is the defendant and 1st respondent is the plaintiff in O.S.No.5449 of 2013 on the file of the VI Assistant City Civil Court, Chennai. The 1st respondent has filed the said suit for permanent injunction restraining the petitioner from interfering with his peaceful possession and enjoyment of the suit property, except due process of law. The petitioner filed written statement in July 2014 and is contesting the suit. The trial commenced. The 1st respondent let in evidence and closed his side and when the suit was posted for evidence of the petitioner, she filed the present I.A.No.6301 of 2015 under Order I Rule 10(3) of CPC, to implead the 2nd respondent herein as 2nd defendant in the suit.



C.R.P.(PD)No.1341 of 2016

WEB COPY

3. According to the petitioner, there is a dispute between the petitioner and the 2nd respondent. The 2nd respondent is residing along with the 1st respondent and has given his address for correspondence in all the cases. The respondents 1 and 2 are brothers and colluded with each other and hence, the 2nd respondent is necessary party in the present suit.

4. The 1st respondent filed counter affidavit and submitted that the 2nd respondent is not residing with him and the 2nd respondent is residing at Choolai. The petitioner, in one way or other to harass the 1st respondent and his family members has filed the present application. The petitioner has also tried to attach the property of the 1st respondent stating that house hold articles of the 2nd respondent is lying in 1st respondent's house. The 2nd respondent is not necessary party in the suit filed by the 1st respondent against the petitioner for permanent injunction restraining her from interfering with his peaceful possession. The suit has been posted



C.R.P.(PD)No.1341 of 2016

WEB COPY

for evidence of the petitioner. The petitioner, without letting in evidence, took number of adjournments and has filed the present application, which is not maintainable and prayed for dismissal of the said application.

5.The learned Judge considering the averments made in the affidavit, counter affidavit, the documents filed by the petitioner and the relief sought for by the 1st respondent in the suit, dismissed the application holding that there is no cause of action against the 2nd respondent.

6.Against the said order of dismissal dated 08.02.2016 made in I.A.No.6301 of 2015 in O.S.No.5449 of 2013, the petitioner has come out with the present Civil Revision Petition.

7.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the 1st respondent and perused the entire materials available on record.



C.R.P.(PD)No.1341 of 2016

WEB COPY

8.From the materials on record, it is seen that the 1st respondent filed the suit against the petitioner for permanent injunction restraining the petitioner from interfering with his possession and enjoyment of the suit property, except due process of law. According to the 1st respondent, the petitioner was married to the 2nd respondent and due to dispute between the petitioner and the 2nd respondent, they are living separately. The 1st respondent, his family, aged parents and the 2nd respondent were residing at Sowcarpet. Subsequently, the 1st respondent shifted his residence to the present address on rent and is staying with his family and aged parents. The 2nd respondent is residing at Choolai. The petitioner is one way or other harassing the 1st respondent, his family members and aged parents. On these averments, the 1st respondent filed the suit for permanent injunction against the petitioner. The petitioner is contesting the suit and the 1st respondent has let in evidence and closed his side.

9.From the order of the learned Judge, it is seen that when the suit was posted for evidence of the petitioner, without letting in any evidence



C.R.P.(PD)No.1341 of 2016

and after taking number of adjournments, the petitioner filed the present application. The reason given by the petitioner for impleading the 2nd respondent is that dispute is only between the petitioner and the 2nd respondent, the 2nd respondent is residing along with the 1st respondent and the respondents colluded together suppressing the fact that the 2nd respondent is residing with him, has filed the suit. From the nature of relief sought for by the 1st respondent in the suit, it is seen that the 1st respondent is seeking for permanent injunction only against the petitioner. No allegation is made against the 2nd respondent and there is no cause of action against the 2nd respondent. In view of the above, it is clear that the 2nd respondent is not a necessary or proper party to the present suit. The learned Judge has considered all the materials in proper perspective and rightly dismissed the application. There is no error or irregularity in the said order of the learned Judge warranting interference by this Court.



C.R.P.(PD)No.1341 of 2016

WEB COPY

9.For the above reasons, this Civil Revision Petition is dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

04.01.2022

vk

To

The VI Assistant City Civil Judge,
Chennai.



WEB COPY



C.R.P.(PD)No.1341 of 2016

V.M.VELUMANI, J.
vkr

C.R.P.(PD)No.1341 of 2016
and C.M.P.No.7541 of 2016

04.01.2022