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C.R.P.No.3062 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.3062 of 2016
and
C.M.P.No.15553 of 2016

C.Anantharaman

...Petitioner

Vs.

- 1.Sathyavathi
- 2.K.Raghavendra
- 3.K.Srinivasan
- 4.K.Suriyanarayanan
- 5.The Deputy Commissioner of Police,
Office of the Deputy Commissioner of Police,
T.Nagar, Chennai.
- 6.The Assistant Commissioner,
Office of the Assistant Commissioner of Police,
Vadapalani, Chennai.
- 7.The Inspector of Police,
R-1, Police Station,
Vadapalani, Chennai 600 026.

...Respondents



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Civil Revision Petition has been filed under Article 227 of Constitution of India, praying to set aside the judgment and decree dated 21.09.2016 passed by the I Assistant Judge, City Civil Court, Chennai in I.A.No.12013 of 2016 in O.S.No.223 of 2016.

For Petitioner : Mr.Selvanandam

For Respondents : No appearance for R1 to R4
Mr.B.Tamilnidhi,
Additional Government Pleader,
for R5 to R7

ORDER

This Civil Revision Petition has been filed by the first defendant in O.S.No.223 of 2016 on the file of the learned I Assistant Judge, City Civil Court, Chennai.

2. The said suit was filed by the respondents/plaintiffs for relief of permanent injunction in respect of the suit property prescribed in the plaint schedule with regard to the T.S.No.1/23 and 1/68. In the said suit, the defendant appeared and filed the written statement and in that suit the plaintiff filed an application in I.A.No.523 of 2016 for the relief of interim



C.R.P.No.3062 of 2016

injunction and the same was granted in favour of the plaintiff. Challenging the said order, the defendant preferred an appeal, which is pending before the III Additional District Civil Court. While so, the petitioner filed an application in I.A.No.12013 of 2016 in O.S.No.223 of 2016 before the trial Court for police protection to implement the repairing works of the compound wall available in the suit property. In that application as pointed out by the learned counsel for the first defendant, he was not added as a party and only the defendants 3, 4 and 5, who are the police authorities, were added. The trial Court also granted police protection in favour of the plaintiff. Aggrieved by the said findings of the trial Court, this present civil revision petition is filed.

3. The learned counsel for the revision petitioner/first defendant submits that the trial Court failed to take note of the fact that in the police protection application the plaintiff purposely omitted to include the defendants 1 and 2 as necessary parties. Suppressing the fact he voluntarily obtained the order of police protection and the same is liable to be set aside.



C.R.P.No.3062 of 2016

4. When the matter was taken up today, there is no representation on the side of the plaintiff. However, on considering the submissions made by the learned Additional Government Pleader and on perusal of the records, it is clear that in the I.A.No.523 of 2016, the interim injunction was granted in respect of defendants 1 and 2, but the plaintiff had not included the defendants 1 and 2 as parties in the police protection application. Therefore, as strongly pointed out by the learned counsel for the respondent, the learned trial Judge also failed to consider the said facts and it is fair to set aside the trial Court order.

5. In view of the above, the order of the trial Court is set aside. Accordingly, this Civil Revision Petition is allowed. Consequently, the connected miscellaneous petition is also closed. There shall be no order as to costs.

18.10.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa



C.R.P.No.3062 of 2016

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- To
- 1.The I Assistant Judge,
City Civil Court, Chennai
 - 2.The Deputy Commissioner of Police,
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 - 3.The Assistant Commissioner,
Office of the Assistant Commissioner of Police,
Vadapalani, Chennai.
 - 4.The Inspector of Police,
R-1, Police Station,
Vadapalani, Chennai 600 026.
 - 5.The Section Officer,
V.R.Section,
High Court, Madras.



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T.V.THAMILSELVI,J.

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