



C.R.P. No. 3086 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 3086 of 2023

Fazilath Banu

...Petitioner

.Vs.

1. Kuppiah

2. P.Allimuthu

3. Ramya Kandasamy

4. M. Saraswathy

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed in I.A.No.5 of 2022 in OS.No.181 of 2022 on the file of the District Munsif Chengalpet.

For Petitioner : Mr. P. Diwakar



C.R.P. No. 3086 of 2023

ORDER

WEB COPY

This petition is filed to set aside the order passed in I.A.No.5 of 2022 in O.S.No.181 of 2022 on 23.03.2023 on the file of the District Munsif Chengalpet.

2. The facts of the case is that the petitioner herein is the plaintiff in O.S.No.181 of 2022 which was filed for permanent injunction against the respondents 1 to 3. The first respondent is the owner of the suit property and the second respondent is the power agent to collect the rent. The subject property was let out to the petitioner for the purpose of running the business in the name and style of Banu Fancy Stores. Whiles the first and second respondents instructed the petitioner to vacate and handover the subject property. Aggrieved over the same, the petitioner has filed the suit in O.S.No.181 of 2022 on the file of the District Munsif Chengalpet seeking for an order of permanent injunction against the defendants, restraining them, their agents and servants from in any way including their henchmen and influencing the police officials in evicting the petitioner from the subject property except under due process of law and to declare that the claim of the 3rd respondent that the subject property belongs to the father of the 3rd respondent. Pending suit the petitioner filed I.A.No.5 of 2022 in O.S.No.181



C.R.P. No. 3086 of 2023

of 2022 under Order 1 Rule 10 of CPC to implead the proposed party one by name Saraswathi as defendant in the suit and the same was dismissed vide order dated 23.03.2023. Hence, this petition.

3. The learned counsel for the petitioner submitted that the proposed defendant/M. Saraswathi has caused a legal notice on 05.09.2022 to the petitioner, wherein she claimed that she is the owner of the suit property and also to pay arrears of rent and to quit and deliver the vacant possession of the suit property, whereas the fact remains that there is no arrears of rent. Due to which the petitioner has filed the I.A.No.5 of 2022 in O.S.No.181 of 2022 to implead the proposed defendant/M. Saraswathi as a party to the suit. However, the Court below without considering the plea of the petitioner concluded that the cause of action does not arose with regard to the proposed defendant/M. Saraswathi and dismissed the I.A. Hence he prays to allow this petition.

4. On a perusal of the records it is seen that that the proposed defendant/M. Saraswathi has filed O.S.No.317 of 2022 on the file of District Munsif Court, Chengalpattu separately seeking for a direction to the petitioner herein to quit and surrender possession of the suit property and also to pay



C.R.P. No. 3086 of 2023

arrears of rent and also to pay future damages of Rs.8,000/- Hence it is made clear that the prayer sought for by the petitioner in I.A.No.5 of 2022 in O.S.No.181 of 2022 to implead the proposed party in O.S.No.181 of 2022 is not necessary as the proposed party have already filed a separate suit in O.S.No.317 of 2022. Further more with regard to the title of the property and the arrears of rent, the same shall be decided at the time of trial in the suit. Hence, in the impugned order the learned Judge has made an observation that no cause of action has been pleaded against the proposed party to implead her in O.S.No.181 of 2022. Therefore, there is no error or infirmity in the impugned order and does not calls interference by this Court. Hence, this Civil Revision petition is devoid of merits and is liable to be dismissed.

5. In view of the above, the order passed in I.A.No.5 of 2022 in OS.No.181 of 2022 on the file of the District Munsif Chengalpet. is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs.

29.08.2023

smn

Index : Yes/No

Internet: Yes/No



C.R.P. No. 3086 of 2023

WEB COPY

To.
The District Munsif Chengalpet.



WEB COPY



C.R.P. No. 3086 of 2023

V.BHAVANI SUBBAROYAN,J.
Snn

C.R.P. No. 3086 of 2023

29.08.2023