



C.R.P.(PD).No.3318 of 2019
and C.M.P.No.21556 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM

THE HONOURABLE **MR.JUSTICE N.SESHASAYEE**

C.R.P.(PD).No.3318 of 2019
and C.M.P.No.21556 of 2019

O.Rock Xavier

Represented by his Power of Attorney Agent,
K.S.Sivaprakasam

... Petitioner

Vs.

1.B.Vasu

2.B.Babu

... Respondents

Prayer: Petition filed under section 115 of Civil Procedure Code, seeking to set aside the order and decreetal order passed by the learned Principal District Munsiff Judge, Vellore in I.A.No.1496 of 2017 in O.S.No.299 of 2009 dated 06.07.2019.

For Petitioner : M/s.T.Sreelekha

For Respondents : No Appearance



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ORDER

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This revision is filed challenging an order passed in I.A.No.1496 of 2017 in O.S.No.299 of 2009, taken out by the 2nd defendant for rejection of the plaint under Order VII Rule 11(a) C.P.C.

2.The suit is laid for bare injunction for protecting the alleged possession of the suit property by the defendants. The suit property is a dwelling house. While so, the Revision Petitioner / 2nd defendant got himself impleaded in the suit. He claims title and possession to the suit property through the 1st defendant.

3.He has now taken out the instant application essentially on the ground that since the prayer was directed only against the 1st defendant and the decree for injunction is a decree in persona, there is no cause of action vis-a-vis the 2nd defendant.

4.Strange are the strategies of the 2nd defendant / Revision Petitioner. If there is no cause of action against him, he need not to have impleaded himself in the party array. Now having got himself impleaded at his initiative, it is only appropriate to contest the suit on merit. After all, if he is



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in possession of the dwelling house, which is now the subject matter of the present litigation, a proof vis-a-vis the same is essential to decide the case of the plaintiff.

5.This Court is also informed that the 2nd defendant has since filed his written statement, the trial Court is required to frame the issues if they have not been already framed and to expedite the entire process of trial at the very earliest and dispose of the matter within a period of four (4) months excluding the summer vacation.

6.In conclusion, this Court does not find any necessity to interfere with the order of the trial Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

06.03.2023

Anu

Copy to:

The Principal District Munsiff Judge, Vellore



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N.SESHASAYEE

Anu

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