



WEB COPY



C.R.P.No.3098 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM : JUSTICE N.SESHASAYEE

C.R.P.No.3098 of 2019
and CMP.No.20156 of 2019

1.Shell India Marketing (P) Ltd.,
Rep. by Authorised Representative Jan Lacki
Office at No.12, (Old No.22) I Cross Street
Ramakrishna Nagar, Mandaveli
Chennai - 600 028.

2.The Managing Director
Shell India Marketing (P) Ltd.,
Office at No.12, (Old No.22) I Cross Street
Ramakrishna Nagar, Mandaveli
Chennai - 600 028.

.. Petitioners / Respondents / Defendants

Vs

1.J.Ramadurai

.. 1st Respondent / Petitioner / Plaintiff

2.U.Kandan @ Kandasamy

3.G.Raviraj

.. Respondents / Proposed Respondents /
Defendants 3 & 4

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 12.06.2019 passed in I.A.No.943 of 2018 in O.S.No.21 of 2006 by the District Munsif Court, Thiruvottiyur.



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For Petitioners : Mr.D.Prajeish
for M/s.King and Partridge

For Respondents : Mr.K.Prabhakaran [R1]

ORDER

This revision is filed by the defendants in O.S.No.21 of 2006 on the file of District Munsif Court, Thiruvottiyur, challenging the order passed by the trial Court in I.A.No.943 of 2018, by which it impleaded couple of defendants at the instance of the plaintiff.

2. The suit is laid for declaration of title and for certain ancillary reliefs. The defendants had entered appearance and filed their written statement, in which they *inter alia* pleaded that the suit is bad for non-joinder of necessary parties. Subsequently, on 20.11.2020, the suit came to be decreed *exparte* and later the defendants had the said *exparte* decree against them, set aside. Thereafter, the defendants have taken out an application under Order VII Rule 11 for rejection of plaint on the ground that the suit is bad for non-joinder of necessary parties. Indeed, an issue has been specifically framed by the trial Court in this regard.



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3. It is in this circumstances, the plaintiff has filed I.A.No.943 of 2018 to implead the very parties, whose non-impleadment has given rise to the said issue of non-joinder of necessary parties. This was allowed by the trial Court, and challenging the same, the defendants are before this Court with this revision.

4. Heard both sides. Mr.Prajeish, learned counsel for the revision petitioner contended that the trial Court went wrong in allowing the application and his contentions are :

- (a) the trial Court has overlooked the fact that this impleadment application was filed only after the defendants have filed their application under Order VII Rule 11 CPC; and
- (b) that it was filed some 12 years after the suit was laid.

5. Developing his arguments, the learned counsel submitted that both the plaintiff and the defendants claim title to the same property, and the defendants' allegation is that the vendor of the defendants ought to have been made as parties.



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6. After appreciating the rival submissions, this Court has little hesitant to state that the situation is largely created by the defendants themselves. It is they who had pleaded that their vendors are necessary parties and they ought to be in the party array. And the plaintiff as *dominus litis* has taken steps though belatedly to implead them, it need to be that the trial Court has framed a issue on this point. It is only to avoid a possible dismissal of the suit on this solitary issue, the plaintiff has taken out this application. This Court wonders how the defendants who are fundamentally instrumental for the plaintiff to file this application, can feel aggrieved about it.

7. To conclude, this Court does not find merit in this revision and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.04.2023

Index : Yes / No
Speaking Order / Non-speaking Order
ds



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WEB COPY To:

- 1.The District Munsif
Thiruvottiyur.
- 2.The Section Officer
VR Section, High Court, Madras.



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N.SESHASAYEE.J.,

ds

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