



C.R.P.No.4357 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2023

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

C.R.P.No.4357 of 2023
and
C.M.P.No.26470 of 2023

Dr.Shakeel

... Petitioner

-Vs-

1.Abdul Majeed
2.Abdul Rahman
3.Abdul Khader

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 06.10.2023 passed in I.A.No.2 of 2021 in O.S.No.1148 of 2016 and allow the present Civil Revision Petition.

For Petitioner : Mr.S.Vasudevan

ORDER

Challenging the impugned order passed in I.A.No.2 of 2021 in O.S.No.1148 of 2016 passed by the learned VII Asst. Judge, City Civil Court, Chennai, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.



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2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner filed an application to implead proposed party as 3rd defendant in the suit for the reason that the defendant caused interference in the enjoyment of the property, besides, he is brother of other defendants also claimed himself as a co-sharer. Though he wanted to implead him, the trial judge dismissed the application stating that if he was impleaded after completion of trial in the suit, new cause of action arose. Therefore, he is not a necessary party to the present suit proceedings. Challenging the said findings, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that as a co-sharer he caused interference, but he was not on record. So, he is a necessary party to the proceedings. But, the trial judge without considering his submissions, erroneously dismissed the application. Hence, he prayed to set aside the findings of trial judge.

5. Admittedly, the respondent has not raised any objection to implead the proposed party. Moreover, as per the plaint averments, the plaintiff prayed not to evict him without due process of law. According to



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him, the mother of defendants admitted him as a tenant. After her demise, legal heirs were impleaded. Now, the proposed party is also one of legal heirs of mother of original landlord. So, the impleadment of proposed party would not cause any prejudice to the right of either of parties. But, without applying the said legal proposition, the trial judge erroneously dismissed the application and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.2 of 2021 in O.S.No.1148 of 2016 is set aside and the said application is ordered to be allowed. The trial judge is directed to carry out necessary amendment within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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To

The VII Assistant Judge, City Civil Court, Chennai.



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T.V.THAMILSELVI, J.

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