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C.R.P.No.1076 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1076 of 2021 and
C.M.P.No.8476 of 2021

Venus Industries rep by its
Partner Bharath Kumar K.Kamdar
Having office at 15 and 16, second floor,
“Prince Plaza, 46, Pantheon road,
Egmore, Chennai-600 008.

... Petitioner

Vs.

- 1.Ms.S.Lakshmi
- 2.Mrs.S.Uma
- 3.Mrs.S.Damayanthi
- 4.Mrs.Parameshwari
- 5.The Commissioner of Land Administration
(Additional Chief Secretary)
2nd floor, Ezhilagam Building,
Chepauk, Chennai-600 005.
6. The Collector
Chennai District
“Singaravelam Maaligai,
Rajaji Salai, Chennai-600 001.
- 7.The District Revenue Officer,
Chennai District,
“Singaravelam Maaligai,
Rajaji Salai, Chennai-600 001



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8. The Assistant Director of Land Survey and land records
7th floor, Chennai Collector Building,
“Singaravelam Maaligai,
Rajaji Salai, Chennai-600 001

9. The Tahsildar
Perambur Taluk Office,
Perambur, Chennai-600 011.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 11.01.2021 passed in I.A.No.7598 of 2018 in O.S.No.5890 of 2017 by the learned XVIII Assistant City Civil Judge, Chennai and consequently allow the application in I.A.No.7598 of 2018 in O.S.No.5890 of 2017.

For Petitioner : M/s.N.Ramiah

For Respondent 1 to 4 : Mr.K.Bijay sundar

For respondent 5 to 9 : Mr.V.Jeeva Giridharan
Additional Government Pleader

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking his impleadment in the suit filed by the respondents 1 to 4 against the respondents 5 to 9.



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2. The respondents 1 to 4 filed a suit seeking declaration that order passed by the 7th respondent/3rd defendant dated 03.10.2017 was null and void and for mandatory injunction directing the respondents 5 to 9 to assign a separate Town Survey Number in respect of Old.Survey.No.131/1 part situated in Perambur Taluk, Erukkencherry Village, Block No.3 in Old Survey No.131/1part Colony Natham measuring an extent of 0.00.29.0 square meters. The respondents 1 to 4 also sought for mandatory injunction directing the other respondents to remove the wrong entry in Town Survey Land Registry in respect of the suit property.

3. The petitioner herein filed an impleading application in the above suit stating that he owns property on the southern side of Erukkencherry Highway and the suit property is a strip of land in between the said highway and the property of the petitioner. It is the case of the petitioner that the suit land is classified as road margin and the respondents 1 to 4 made an encroachment in the road margin and trying to interfere with the access of the petitioner to the highways. Therefore, he sought for his impleadment for proper adjudication.



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4. The said application was seriously opposed by respondents 1 to 4 on the ground that petitioner herein is not having any right over the suit property and the respondents 1 to 4, being the plaintiffs in the suit are having every right to choose with whom they want to fight.

5. The Court below, on consideration of the rival claims of the parties, had chosen to dismiss the impleading application and aggrieved by the same, the petitioner is before this Court.

6. The learned counsel for the petitioner submitted that by encroaching the suit property which is a road margin, the respondents 1 to 4 are causing hindrance to the access of the petitioner to the Highways on the Southern side. The learned counsel further submitted that respondents 1 to 4 already filed a suit for bare injunction against the petitioner in O.S.No.3469 of 2016 in respect of the very same suit property. Therefore, the presence of the petitioner is very much essential to decide the issue.



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7. The learned counsel for the respondents 1 to 4 mainly opposed the revision petition on the ground that plaintiffs are '*dominus litis*' in the litigation and a third party who is not having any interest cannot claim that he should be impleaded in the suit. In support of his contentions, the learned counsel relied on the following judgments

1) ***Moreshar Yadoarao Mahajan Vs Vyankatesh Sitaram Bhedi(D) thr. L.R's and Others*** reported in **2022 SCC OnLine SC 1307**.

2) ***Antony Devaraj and another Vs Aralvaimozhi (Kurusadi) Devasahayam Mount Oor and Thuya Viagula, Annai Church, rep. By its Trustee and Others*** reported in **2004 (2) CTC 183**.

8. It is not in dispute that in respect of the very same suit property, the respondents 1 to 4/plaintiffs filed a suit for bare injunction against the petitioner in O.S.No.3469 of 2016 on the file of VIII Assistant City Civil Court, Chennai. The learned counsel for the respondents 1 to 4 submitted that above said suit was dismissed by the concerned Court on the ground that



petitioner failed to establish his semblance of right over the suit property.

Therefore, the present application for impleading shall be dismissed. The respondents 1 to 4 herein seeks declaration in respect of the order passed by the 7th respondent herein declining the patta in favour of respondents 1 to 4. The petitioner opposed the issuance of patta to respondents 1 to 4 on the ground that the suit property is a road margin and if respondents 1 to 4 are allowed to occupy the suit property, their access to Highways will get affected. The filing of the suit by respondents 1 to 4 against the petitioner in O.S.No.3469 of 2016 on the file of VIII Assistant City Civil Court, Chennai would establish that there is a dispute between the petitioner and the respondents 1 to 4. In such circumstances, though the petitioner may not be strictly termed as necessary party to this litigation, the petitioner shall be deemed as a proper party in whose presence the Court can adjudicate the controversies involved between the parties in a more effective and comprehensive way. Therefore, I find that the presence of the petitioner will enable the Court to decide the case in a more effective way. Therefore, the order passed by the Court below dismissing the impleading application is set aside.



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9. Accordingly, the Civil Revision Petition stands allowed.

Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes / No

Internet : Yes / No

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To

The learned XVIII Assistant City Civil Judge, Chennai



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S.SOUNTHAR, J.

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