



CRP.No.4735 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

C.R.P.NO.4735 OF 2023 &
CMP.NO.28104 OF 2023

Abarna,
W/o.Purushothama Thambu
represented by her Power Agent
G.Thambu Reddiar

.. Petitioner

Vs

1. Munisamy

2. Gopu

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the order passed by the learned II Additional District Judge, Pondicherry in I.A.No.504 of 2018 in O.S.No.1262 of 2013, dated 15.03.2019.

For Petitioner : Mr. B. Balavijayan

ORDER

This Civil Revision Petition has been filed challenging the order passed by the learned III Additional District Judge, Pondicherry in I.A.No.504 of 2018 in O.S.No.1262 of 2013, dated 15.03.2019.



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2. The learned counsel for the petitioner submitted that the Revision Petitioner is the proposed defendant in O.S.No.1262 of 2013 on the file of II Additional District Munsif Court, Puducherry. The 1st respondent/plaintiff filed a suit against the 2nd respondent herein/defendant for the relief of declaration of title over the plaint schedule properties and also for a consequential direction to deliver the vacant possession of the suit property by removing all the superstructures effected on the said property. Pending trial, an application was filed by the plaintiff in I.A.No.389 of 2013 to appoint an Advocate Commissioner for ascertaining the whereabouts of the plaintiff's property and the same was allowed. The petition was allowed and the Advocate Commissioner filed his report on 14.08.2015 stating that with the help of the surveyor, he identified the properties. He further stated in his report that in Plot No.87 and 88 of the suit property, there exist an RCC two storied residential building in Plot No.87 and it was constructed by Mrs.Abarna, wife of Purushothaman, the petitioner herein and at Plot No.88, there exist a building under construction and it was done by the defendant. He further submitted that in the disputed property, the plaintiff sought declaration of title and consequential direction and delivery of vacant



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possession and since the petitioner is in possession of the suit property, she has been impleaded as a necessary party/one of the defendants. The learned counsel further contended that she had purchased the property at Plot No.86, 4th cross street, Thiruveni Nagar, Arumarthapuram, Villianur, Puducherry 605 110 and plot No.87 is not concerned with this petitioner/proposed defendant and impleading the petitioner as one of the defendants in the suit is unwarranted. Hence he seeks to set aside the impugned order impleading the petitioner as one of the defendants in the suit property.

3. Heard the submissions of the learned counsel for the petitioner and perused the materials available on record.

4. On perusal of records, the fact reveals that the petitioner is the proposed defendant and the 1st respondent is the plaintiff and 2nd respondent is the defendant in O.S.No.1262 of 2013 on the file of II Additional District Munsif at Pondicherry. Further, the fact reveals that the plaintiff filed the suit for the relief of declaration of title over the plaint schedule properties and also for a consequential direction to deliver the vacant possession of the suit property by removing all the



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superstructures effected on the said property.

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5. In order to identify the property, the plaintiff filed an application for appointment of Advocate Commissioner with the help of surveyor to identify the property in I.A.No.389 of 2013. The petition was allowed. In pursuance of the order of the court, the Advocate Commissioner inspected the disputed property with the help of a Surveyor and identified the Plot Nos.87 and 88 and found that a two storied building was constructed by the petitioner in Plot No.87 and also filed his report to that effect. In pursuance of the Commissioner's report, the plaintiff filed I.A.No.504 of 2018 to implead the petitioner herein as one of the proposed defendants in the suit and the trial court, considering the submissions, allowed the petition on the ground that the presence of the petitioner is necessary for effective and complete adjudication. It is not disputed that the petitioner is in possession of the plot No.87, in respect of which property, the plaintiff had filed a suit for declaration of title and recovery of possession. Since the petitioner is in possession of the disputed property, this court is of the view that the petitioner is the necessary party for effective adjudication of the issues involved in the suit. The trial court has rightly impleaded the petitioner as one of the



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defendants and allowed the petition by passing the impugned order.

Hence, I do not find any reason to interfere with the order passed passed by the trial court. The Civil Revision Petition is devoid of merits. Hence, it is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

03.01.2024

msr

Index:yes/No

Internet:yes/no

To

The III Additional District Judge, Pondicherry

V. SIVAGNANAM, J.

msr



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