



C.R.P. (PD) .No. 3968 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No. 3968 of 2024

&

C.M.P.No. 21733 of 2024

Selvi

...Petitioner

Vs.

Kandasamy

...Respondent

Prayer: Petition is filed under Article 227 of the Constitution of India against the order dated 04.04.2024, passed by the Principal District Munsif Court, Attur in I.A.No.5 of 2021 in I.A.No.2 of 2021 in O.S.No.73 of 2021.

For Petitioner : Mr. S.P.Chokalingam



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ORDER

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This Civil Revision Petition arises against the order passed by the learned Principal District Munsif, Attur, in I.A.No.5 of 2021 in I.A.No.2 of 2021 in O.S.No.73 of 2021 dated 04.04.2024. The civil revision petitioner is the defendant / respondent.

2. The plaintiff presented the suit O.S.No.73 of 2021 seeking relief of permanent injunction restraining the defendant, her men, agents etc., from in any manner digging the Well in the suit property.

3. The cause of action for the suit is that the plaintiff and the defendant are owners. The defendant started digging Well in the south east portion near the plaintiff's house on 08.04.2021. She started using explosives for the purpose of deepening the well. This damaged the house of the plaintiff. Hence, the plaintiff lodged a complaint and the Police refused to take any action because, the matter is civil in nature. Hence, the suit.



4. The defendant was served with the summons but not filed a written statement so far. Thereafter, the plaintiff took out an application for interim injunction in I.A.No.2 of 2021 and the learned Principal Judge granted an order of injunction restraining the defendant / petitioner from digging Well in petition mentioned property till disposal of the petition, by order dated 20.04.2021. The plaintiff thereafter was served with summons in O.S.No.114 of 2021 on the file of the Additional District Munsif, Attur, wherein it was pleaded that the husband of the defendant while attempting to dig Well was being interfered with the present plaintiff. It is at this stage, the plaintiff came to know that the entire digging process is being undertaken by the husband of the defendant. Hence, he filed an application to implead the husband as party to the suit.

5. On being served with the summons, the defendant filed a detailed counter. She denied the acts as pleaded in plaint but would accept that her husband, Sivanantham had filed a suit in O.S.No.114 of 2021. Considering the plea and the counter, the learned Trial Judge



allowed the application by way of impugned order. Hence this revision.

6. Heard Mr.S.P.Chockalingam in support of the Civil Revision Petition.

7. Mr.S.P.Chockalingam pleaded that the proposed party had obtained permission as required under Tamil Nadu Panchayats (Regulation of Sinking of Wells and Safety Measures) Rules, 2015. Hence, he urges that there is no cause of action for the suit. He further states that by impleading the proposed party, grave injustice is caused to him.

8. I have carefully considered the arguments of Mr.S.P.Chockalingam and gone through the entire records.



9. At the outset, it has to be pointed out that the party who has been impleaded, namely, Sivanantham has not preferred this revision. It is the case of the defendant that it is her husband who is digging the well. If that be the situation and if the allegation as seen in the plaint that explosives are being used for the purpose of digging well, then the proposed party is certainly a proper and necessary party to the proceedings. *Whether the Well is being dug after obtaining permission of the authorities and without damages to the house of the plaintiff are all matters which have to be gone into Trial.* Suffice it to say, on the basis of the allegation made in the petition, Sivanantham is a proper and necessary party. This is because, without him the suit cannot be properly disposed of. Hence, I have no reason to interfere with the impugned order.

10. Since the suits in O.S.No.114 of 2021 and O.S.No.73 of 2021 relating to the same cause of action, interest of justice requires both proceedings be disposed of in a common Judgement, after common Trial. The learned Principal District Munsif, Attur, shall make



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arrangements in this regard.

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11. With the above observation, the Civil Revision Petition is dismissed. 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 Principal District Munsif,
Attur.

V.LAKSHMINARAYANAN, J.



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