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C.R.P.(PD).No.3640 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3640 of 2024
and C.M.P.No.19791 of 2024

M.Vijayakumar

.. Petitioner

Versus

1. N.K.A.M.Victor Laurance
2. N.K.A.M.Vinolia Shoba
3. The Principal Secretary/Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.
4. The Commissioner,
Commissionerate of Land Administration,
Land Administration Department,
2nd Floor, Ezhilagam, Chepauk,
Chennai - 600 005.
5. The Deputy Secretary,
Commissionerate of Land Administration,
Land Administration Department,
2nd Floor, Ezhilagam, Chepuak,
Chennai - 600 005.
6. The Tahsildar,
Tondairpet Taluk,
T.H Road, Tondairpet,
Chennai - 600 081.

.. Respondents



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Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 09.08.2024 made in I.A.No.10 of 2023 in O.S.No.3823 of 2020 on the file of the XIV Assistant City Civil Court at Chennai and allows this Civil Revision Petition.

For Petitioner : Mr.B.Janakiram

For Respondents : Mr.A.Anandan,
Government Advocate,
for RR-3 to 6

ORDER

This Civil Revision Petition arises against the order passed by the learned XIV Assistant City Civil Court, Chennai in I.A.No.10 of 2023 in O.S.No.3823 of 2020, dated 09.08.2024.

2. The plaintiff is the revision petitioner. O.S.No.3823 of 2020 is a suit for permanent injunction restraining the respondents from putting up any construction over the property which the petitioner claims belongs to him. The petitioner claims that he purchased the property on 04.05.2001 and the same is registered on the file of the Sub-Registrar, Royapuram. He would claim that the revenue records were mutated in his favour. He would allege that the mother of the respondent Nos.1 and 2, namely one



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Sugirthammal, was the tenant under his vendors. Thereafter, the respondent Nos.1 and 2 succeeded to the possession of the property. Pleading that they defaulted in payment of rents, proceedings were initiated in R.C.O.P.No.1986 of 2010. The Rent Control Original Petition is said to be pending. In the meantime, the respondents started putting up construction. Hence, the petitioner came forth with the present suit.

3. The respondents argued that the property vests with the Government of Tamil Nadu by virtue of acquisition, and therefore, the petitioner is not entitled to sustain the suit. Since such a plea had been raised by the respondents, an application was filed by the petitioner to implead (i) the Principal Secretary to the Government, Greater Chennai Corporation; (ii) the Commissioner, Land Administration Department; (iii) the Deputy Secretary to the Government, Land Administration Department and (iv) the Tahsildar, Tondiarpet taluk as proposed defendants in the suit. The said application was dismissed by the learned Trial Judge holding that their presence is not necessary for the purpose of disposal. Hence, this Civil Revision Petition.



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4. Heard Mr.B.Janakiram, learned Counsel for the petitioner and Mr.A.Anandan, learned Government Advocate for the respondent Nos.3 to 6.

5. The narration of the aforesaid facts would show that this is essentially a private dispute between the civil revision petitioner and the respondent Nos.1 and 2. Neither the Government is putting up any construction nor is the Government claiming to interfere with the possession of the parties to the suit. In a suit for a bare injunction restraining the defendants not to put up the construction, the presence of the Governmental authorities is neither necessary nor essential.

6. Mr.B.Janakiram would submit that the respondents Nos.1 and 2 are raising a plea that the property had been acquired by the Government, which was denied as false by the Tahsildar himself in a connected writ proceedings. If that be the situation, it is always open to him to summon an officer from the office of Tahsildar or the Tahsildar himself to depose before the Court that the property is not a subject matter of the acquisition. The learned Government Advocate also agrees to the said course of action.



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For the purpose of making Governmental records, the Governmental authorities, in whose custody the records are available, need not be impleaded as parties to the suit.

7. Granting liberty to the civil revision petitioner to summon such authorities as he deems fit are necessary, this Civil Revision Petition is dismissed. Costs imposed by the Court below shall be deleted. No costs in this revision. Consequently, connected miscellaneous petition is closed.

10.09.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

The XIV Assistant City Civil Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

grs

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