



C.R.P(MD)No.515 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.06.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.515 of 2018

and

C.M.P(MD)No.2261 of 2018

Sukumaran

... Petitioner/Petitioner/
Plaintiff

Vs.

1.Mohammed Hassankhan

2.Shahul Hameed

... Respondents/Respondents 1&2/
Defendants

3.George

... Respondent/3rd Respondent/
Proposed Defendant

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in I.A.No.335 of 2015 in O.S.No. 370 of 2014, dated 10.12.2015 on the file of the I Additional District Munsif Court, Kuzhithurai.

For Petitioner : Mr.S.C.Herold Singh



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For R1 & R2 : Mr.S.Bharathi

For R3 : Mr.C.Kishore

ORDER

The present revision petition has been filed by the plaintiff in O.S.No.370 of 2014 on the file of the I Additional District Munsif Court, Kuzhithurai challenging an order wherein an application under Order I Rule 10 has been dismissed and the review application filed by the plaintiff to review the same has also been dismissed.

2. The petitioner herein as plaintiff has filed the above suit for the relief of permanent injunction from putting up any new construction encroaching upon the plaint schedule property including the pathway portion as against the 2 defendants who are respondents 1 and 2 in the revision petition. Pending suit, the plaintiff had filed I.A.No.335 of 2015 to implead the 3rd respondent herein as 3rd defendant in the said suit on the ground that the said 3rd respondent has filed a caveat disputing his title and possession over the property. The said application was dismissed by the trial Court on 10.12.2015.



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3. The plaintiff herein had filed I.A.No.324 of 2016 to review the order, dated 10.12.2015 made in I.A.No.335 of 2015. The trial Court had dismissed the review application on the ground that there is no error apparent on the face of the record. Challenging these two orders, the present revision petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, since the 3rd respondent herein namely George in his caveat, had disputed the title and possession of the suit schedule property, he is a necessary party to the suit. If he is not impleaded that would result in multiplicity of proceedings.

5. Per contra, the learned counsel appearing for the respondents herein had contended that the suit is of the year 2014 and in view of filing of these applications, the suit is being dragged on by the plaintiff. When the Court had already held that the said George is not a necessary party, the plaintiff ought not to have filed the review application. Hence, he prayed for sustaining the orders passed by the trial Court.



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6. I have carefully considered the submissions made on either side and perused the material records.

7. A perusal of the plaint prayer and the counter filed by the proposed party would clearly indicate that the said proposed party, namely George has only filed a caveat before the Court and there is no allegation of any physical disturbance of possession of the plaintiff by the said proposed party. Since no error apparent on the face of the record was brought to the notice of the Court, the trial Court was also right in dismissing the review application. There are no merits in the revision petition.

8. Hence, this Civil Review Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

06.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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- 1.The I Additional District Munsif Court,
Kuzhithurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Order made in
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