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CRP(PD).No.714 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.714 of 2025

and

C.M.P.No.4073 of 2025

J.Jayapaulmohan

... Petitioner

Vs.

1.Zahira Banu

2.Saida Banu

3.Mohammed Mahabob Subhani

4.Taj Begum

5.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai-600003

6.The Executive Engineer,
Zone-V, Greater Chennai Corporation,
Basin Bridge, Chennai -600001

7.The Asst. Executive Engineer,
Unit-14, Greater Chennai Corporation
No.2, Adikesavalu Street,
Chindadripet, Chennai

8.The Asst. Engineer,
Division-61, Greater Chennai Corporation,
No.25, Driver's Street, Chennai

... Respondents



Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 07.08.2024 passed in IA.No.8/2023 in OS.No.8545/2022, passed by the XIX Additional City Civil Court, Chennai.

For Petitioner : M/s.T.S.Kani

ORDER

Challenging the order passed by the XIX Additional City Civil Court, Chennai in I.A.No.8 /2023 in O.S.No.8545/2022, the petitioner/1st defendant is before this Court.

2. The petitioner had filed I.A.No.8 of 2023 to implead the respondents 5 to 8 herein as defendants 3 to 6 in the main suit which has been dismissed by the learned Judge with costs.

3. The facts are briefly set out hereinbelow:-

4. The plaintiffs/respondents 1 to 3 had filed the suit O.S.No.8545 of 2022 on the file of the XIX Additional City Civil Court, for delivery of possession, permanent injunction and damages.



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5. The plaintiffs would contend that the property in question was leased to 8 tenants, 3 of whom, namely, Zhathoon Bi, Glori and Raja have been tenants for a very long time and have committed a willful default in the payment of rent, act of waste and sub-letting. Therefore, the plaintiffs had filed RCOP.No.1513 of 2002 on the file of X Small Causes Court, Chennai seeking their eviction. The respondents/tenants in the said RCOP had raised a plea that there was no landlord-tenant relationship between the plaintiffs 1 to 3 and themselves. The remaining 5 tenants, namely, Mrs.Antony, Mr.Roopan, Mr.Thomas, Mr.William and Raja had also committed a willful default in the payment of rent, act of waste and subletting. Against whom plaintiffs 1 to 3 had filed RCOP.No.1512 of 2002 seeking for their eviction. The respondents/tenants in this RCOP had also raised the plea of there being no landlord-tenant relationship between plaintiffs 1 to 3 and themselves.

6. The above rent control proceedings were dismissed against which the plaintiffs 1 to 3 had preferred RCA Nos.66 and 67 of 2018, on the file of the VIII Small Causes Court, 2018 which were also dismissed.

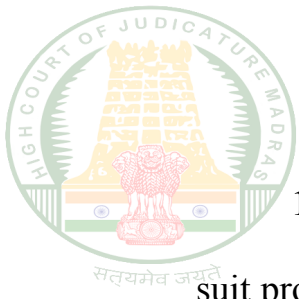
7. One of the tenants, Raja had passed away on 06.04.2021 and



thereafter, the 1st defendant occupied this property unauthorizedly. The fact that the property has been unauthorizedly occupied came to the knowledge of plaintiffs only when the 3rd plaintiff had physically visited the suit property and noted down that the 1st defendant was in occupation of the property. When enquiry was made, he was informed that the 1st defendant had been occupying the property for over 2 decades stating that he is the nephew of one Sabastian who had purchased the suit property.

8. The plaintiffs also came to learn that the said Sabastian had in his alleged capacity as owner filed a suit O.S.No.4036 of 2001 on the file of the VI Additional City Civil Court seeking a permanent injunction restraining the defendants therein from putting up a construction.

9. The said Sabastian appeared to have purchased the property from one C.M.Sundaramurthy and 3 others who had no right, title and interest over the property. The sale deed itself is a forged document. These persons are totally strangers to the property.

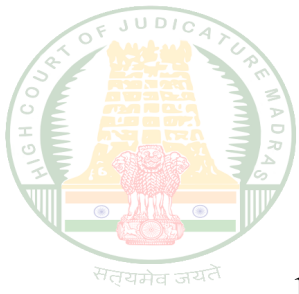


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10. The plaintiffs would claim that they are the lawful owners of the suit property. The same having been purchased by one Zahara Bee, wife of Mohammed Burhudeen under a registered sale deed dated 24.06.1938. The property thereafter devolved on her daughter J.Kathija Bee, the mother of the plaintiffs by succession. The property was allotted to J.Kathija Bee by her brothers by way of an oral settlement on 25.04.1993 and from then the plaintiffs' mother has been in possession and enjoyment of the property. The plaintiffs, being the legal heirs of J. Kathija Bee, are fully entitled to the rights over the property.

11. The plaintiffs would submit that the 1st defendant was attempting to encumber the suit schedule property and therefore they had filed a suit OS.No.3586 of 2022 on the file of the XVII Assistant City Civil Court, Chennai seeking a permanent injunction restraining the 1st defendant from interfering with the peaceful possession and enjoyment of the property. Since the plaintiffs are not in possession of the property they were advised to withdraw the said suit with liberty to file a fresh suit for the same cause of action and consequently this suit has been filed.

12. The 1st defendant had filed a written statement claiming right to the property.



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13. The 1st defendant had thereafter filed I.A.No.8/2023 which is impugned in this proceedings for impleading respondents 5 to 8 herein as defendants 3 to 6 in the main suit. The reason for seeking to implead the respondents is on the ground that the plaintiffs are using the official powers of respondents 5 to 8 to throw out the petitioner/1st defendant and his tenant from the suit property and for which purpose they have been serving notices without following procedure. Therefore, the petitioner would submit that they are to be made a necessary party. In fact, the petitioner seeks to implead them on the ground of issuing the following notices:-

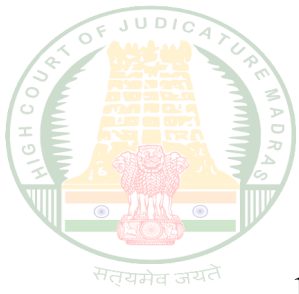
i. Notice calling for approval plan to Mr.Sebastian dated 12.07.2019.

ii. Notice calling for approval plaint to Mrs.Zohara Bibi Sahiba (J.Jeyapaul Mohan/Occupier) dated 01.03.2022.

iii.Locking & Sealing and Demolition notice in the name of Zohara Bibi Sahiba to Door No.66 daed 25.03.2022.

iv.Locking & Sealing and Demolition notice in the name of Sabastian (late)/Jayapaul Mohan subject property Door No.66 daed 25.03.2022.

v.Letter from the Asst. Executive Engineer to Mr.Jayapaul Mohan No.10/66, Calling to give copy of approval dated 07.10.2022.



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14. The said application was resisted by the proposed respondents by contending that they are neither necessary nor proper parties to the proceedings and the petitioner/1st defendant is placing a fetter on respondents 5 to 8 from exercising their statutory duty. The petitioner/1st defendant had removed the lock and seal that had been put by the officials of the Chennai Corporation as the construction was an unauthorized one. That apart, the petitioner/1st defendant was threatening the officials.

15. The 3rd plaintiff/3rd respondent had filed a counter stating that the action was taken against the 1st defendant/petitioner by the Corporation Authorities as he being an encroacher had put up an unauthorised construction and they are neither necessary nor appropriate parties to the proceedings.

16. The learned XIX Additional Judge by his order dated 07.08.2024 had proceeded to dismiss the said application with costs by stating that the petitioner herein who is the 1st defendant in the suit, has no locus standi to file this petition as it is the plaintiff who is the dominus litis. Further, respondents 5 to 8 are neither necessary nor proper parties to the



proceedings. Challenging the same, the petitioner is before this Court.

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17. Heard the counsel for the petitioner/1st defendant.

18. The suit is one for recovery of possession against the 1st defendant on the ground that he is an unauthorized occupant of the aforesaid premises. Since 1st defendant had attempted to put up unauthorized construction on the property of the plaintiffs a complaint has been made to the statutory authorities who have acted upon the said complaint by following procedure. The action which has been undertaken by respondents 5 to 8 has no bearing on the issue involved in the suit in question. Further, the plaintiffs are the dominus litis and it is for them to decide as to whom they should implead as parties and against whom the relief is sought for. The petitioner herein is only a 1st defendant in the suit if he is aggrieved by any official action, his remedy is elsewhere.

19. Therefore, the Trial Court has rightly held that the respondents 5 to 8 are neither necessary nor appropriate parties to the proceedings and dismissed the application and I see no reason to interfere with this order.

20. The learned counsel for the petitioner made a representation that



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the order imposing costs may be set aside. Therefore, considering his request, the Civil Revision Petition is partly allowed setting aside the order passed in I.A.No.8 of 2023 in O/S.No.8545 of 2022 by the XIX Additional City Civil Court, Chennai in so far as it relates to the payment of costs alone. No costs. Consequently, the connected Miscellaneous Petition is closed.

25.02.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

- 1.The XIX Additional City Civil Court, Chennai.
- 2.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,

9/11



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