

(2018) 01 MAD CK 0519

MADRAS HIGH COURT

Case No: 1531 of 2016 and C M P NO 8321 of 2016

D. Santhanam

APPELLANT

Vs

S. Chandra & Ors

RESPONDENT

Date of Decision: Jan. 18, 2018

Acts Referred:

- Code of Civil Procedure, 1908, Order 1 Rule 10(2)

Hon'ble Judges: D. Krishnakumar

Bench: Single Bench

Advocate: R. Narayanasamy, M. Jaikumar, S. Saravana Kumar

Final Decision: Disposed Off

Judgement

1. This revision petition is filed against the fair and decreetal order in I.A. No. 14810/2015 in O.S. No.4490 of 2015 dated 11.04.2016 passed

by the learned XVII Assistant Judge, City Civil Court at Chennai.

2. The learned counsel for the petitioner would submit that the petitioner has filed a suit in O.S. No.4490 of 2015, seeking for the relief of specific

performance and permanent injunction, against the respondents 2 and 3. In the aforesaid suit, the first respondent has filed an Interlocutory

Application in I.A. No.14810/2015 under Order 1 Rule 10(2) of Code of Civil Procedure to implead herself as 3rd defendant in the suit, for

adjudication.

3. According to the 1st respondent herein, she purchased the property in D. No. 18/79, Rajamangalam 7th Street, Villivakkam, Chennai -49. The

petitioner/ plaintiff is trying to grab her suit property, by furnishing false door number, as described in the schedule. Hence, she is a necessary party

in the suit filed by the petitioner herein and that the trial court has rightly allowed her application.

4. According to the petitioner, the 1st respondent is not at all necessary party in the suit. In the schedule, described in the suit, the suit property is

shown as D. No.27/27, Rajamangalam 7th Street, Villivakkam, Chennai -49. Whereas the 1st respondent is residing at D. No. 18/79,

Rajamangalam 7th Street, Villivakkam, Chennai -49. The learned counsel for the petitioner further submitted that the petitioner will proceed only in

respect of the schedule mentioned suit property and not against the 1st respondent's property. In the event of any amendment in the description of

the property, the petitioner undertakes before this Court that without impleading the 1st respondent, the petitioner will not prosecute the suit.

Therefore, the order passed by the court below is liable to be set aside.

5. The 1st respondent has filed an application to implead her as a party in the suit filed by the petitioner, anticipating that the petitioner is claiming

her property. Further, the learned counsel for the respondent also admitted that the description of the property in the suit schedule is D. No. 27/27,

Rajamangalam 7th Street, Villivakkam, Chennai -49 and on the apprehension that there would be interference by the petitioner in the 1st

respondent's property, she has filed the impleading application. From the above submissions of the learned counsel for the petitioner, it is clear that

there would be no interference by the petitioner, in so far as suit property is concerned. The respondent may not have objection by recording the

statement of the counsel for the petitioner.

6. Considering the submission of the learned counsel for the parties, the order passed by the court below is set aside. The Civil Revision Petition is

allowed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.