



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2016

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

CRP(MD).(PD).No.1778 of 2015

and

M.P.(MD).No.1 of 2015

Kandasamy @ Shanmugavel ... Petitioner/proposed Defendant No. 2

Vs.

1.Mahendiran

rep. By his power agent,

Kalyanasundaram. ... Respondent No.1/Plaintiff

2.Thamizh Selvi. ...Respondent No.2/Defendant

Prayer :Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 17.06.2015 made in IA No.77 of 2014 in OS No.81 of 2013 on the file of the District Munsif Court, Pattukkottai.

For Petitioner

:Mr.C.Padmaraj

For respondents

:Mr.K.K.Ramakrishnan for R-1

No appearance for R-2

ORDER

This Civil Revision Petition is filed challenging the order dated 17.06.2015 made in IA No.77 of 2014 in O.S No.81 of 2013 on the file of the Learned District Munsif Court, Pattukkottai.

2.The first respondent filed a suit in O.S.No.81 of 2013 against the second respondent for declaration and permanent injunction. Pending suit, the petitioner filed I.A.No.77 of 2014 to implead him as 2nd defendant of the suit contending that he is the owner of the property to an extent of 30 cents in S.F.No.203/1B. The Learned District Munsif, Pattukkottai dismissed the application by observing that the petitioner has not produced any documents to establish his plea.

3.The Learned Counsel for the Petitioner would submit that the petitioner has been in possession of the property and the records issued by the Revenue Authorities could not be placed



before the Trial Court at the time of hearing and now, the petitioner is ready to produce all the documents to establish his right over the property.

4. Per contra, the Learned Counsel for the First Respondent would submit that the plaintiff is *dominus litus* and she is to choose the parties and the petitioner cannot be impleaded without any right over the property.

5. It is well settled law that in the application for impleading, the rights of the parties cannot be decided. Since the petitioner claims right over the property, the contention of the respondent that the plaintiff is to choose the parties, cannot be accepted.

6. In view of the above, the impugned order dated 17.06.2015 made in IA No.77 of 2014 in OS No.81 of 2013 by the Learned District Munsif, Pattukkottai is set aside and the case is remitted back for fresh disposal. The Learned District Munsif, Pattukkottai shall dispose of the petition on merits and in accordance with law as expeditiously as possible without being influenced with any of the observations made in this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

The District Munsif , Pattukkottai.

+One cc to Mr.C.Padmaraj, Advocate, SR.No.44445

vs

RL/3C/2P/CK/20/9/2016

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