



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2016

WEB COPY

CORAM :

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

CRP (MD) . (PD) . No. 1596 of 2016

and

C.M.P. (MD) . No. 7810 of 2016

K.P. Panneerselvam ... Petitioner/2nd Plaintiff/
2nd Plaintiff

Vs.

1. The State of Tamil Nadu
rep. By its Collector,
Collectorate,
Karur.

2. The Tahdildar,
Taluk Office,
Aravakurichi,
Karur District.

3. The Aravakurichi Town Panchayat,
rep. By Executive Officer,
Dharapuram Main Road,
Town Panchayat Office,
Aravakurichi,
Karur.

... Respondents 1 to 3 / 3 to 5 Respondents /
Defendants

4. Indirani ... 4th Respondent / Petitioner / 3rd Party

5. Poongodi ... 5th Respondent / 1st Respondent
/ 1st Plaintiff

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretar order passed by the Additional District Munsif, Karur in I.A.No.53 of 2015 in O.S.No.418 of 2014, dated 22.02.2016.

For Petitioners : Mr. N. Shanmugaselvam

For respondents : Mr. G. Muthukannan
Govt. Advocate for RR-1 to 3

**ORDER**

This Civil Revision Petition is directed against the order passed by the Additional District Munsif, Karur in I.A.No.53 of 2015 in O.S.No.418 of 2014.

2.The petitioner and the 5th respondent filed the suit against the respondents 1 to 3 for declaration declaring that the sub-division made on south-east corner of S.F.No.365/2 is void and non-est and for a consequent direction to delete the same and to declare the notice issued by the 3rd respondent dated 08.09.2014 is void and for other reliefs. Pending suit, the 4th respondent, filed an application to implead her as 4th defendant in the suit.

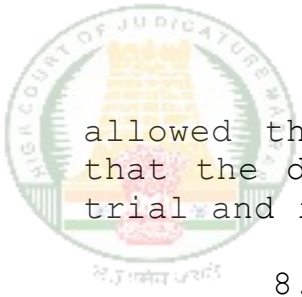
3. The case of the fourth respondent viz., Indirani is that the suit property S.F.No.365/1 is classified as pathway and it has been in existence for many years. She is the absolute owner of the property in S.F.No.360/B3 and she has been using the pathway in S.F.No.365/1 for more than 5 decades. Further, she along with her husband, A.K.Jeya Prakasam sent written complaints to the defendants 1 & 2 for removal of encroachment, for which, the second defendant sent a reply dated 23.07.2014 and another intimation was sent by the 3rd defendant dated 08.08.2014 stating that the 2nd defendant has fixed '19.08.2014', for removal of the encroachment in S.F.No.365/1. So, she is the necessary party to the suit.

4. Despite resistance by the plaintiffs, the Learned Judge allowed the application. Aggrieved over the said order, the present Civil Revision Petition is filed.

5. Heard Mr.N.Shanmugaselvam, Learned Counsel for the Petitioner and Mr.G.Muthu Kannan, Learned Government Advocate appearing for the respondents 1 to 3 and perused the records.

6. It is not in dispute that the suit in O.S.No.418 of 2014 was filed for declaration with regard to the sub-division made in S.F.No.365/2. The case of the proposed respondent is that she is the owner of S.F.No.360/B3 and she has been using the pathway in S.F.No.365/1 and based on her representation, the defendants 2 and 3 have initiated proceedings to remove the encroachment made by the plaintiffs in S.F.No.365/1. The plaintiffs have challenged the notice of removal of encroachment issued by the third respondent dated 08.09.2014.

7. It is to be seen that the original defendants initiated proceedings based on the complaint of the proposed party. The trial court, in my opinion, rightly held that the proposed party is necessary and proper party to the suit and



allowed the application. The trial court has further observed that the dispute between the parties could be decided only after trial and it was allowed to avoid multiplicity of proceedings.

8. In view of the above, I do not find any merit in the Civil Revision Petition. In fine, the Revision is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,
State of Tamil Nadu
Collectorate,
Karur.

2.The Tahsildar,
Taluk Office,
Aravakurichi,
Karur District.

3.The Executive Officer,
Aravakurichi Town Panchayat,
Dharapuram Main Road,
Town Panchayat Office,
Aravakurichi, Karur.

+1 CC to Mr.N.SHANMUGA SELVAM, Advocate, SR No.46651

CRP (MD) . (PD) .No.1596 of 2016
22.08.2016

vs

SH/GSV-PM:21.09.2016:2P/5C