



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2016

CORAM

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

C.R.P.PD.(MD).No.21 of 2016

and

CMP(MD).NO.102 OF 2016

- P.Samuthirakani ...Petitioner/Petitioner/ 2nd Defendant
vs.
1. Muniyandi
2. Subramanian
3. Krishnamoorthy
4. Velusamy ... Respondents/1st to 4th Respondents
1st to 4th plaintiffs
5. The Tahsildar,
Taluk Office,
Srivilliputhur,
Virudhungar District. ...Respondent/1st Respondent/
1st Defendant
6. The Special Tahsildar,
Athi Dravidar Welfare Department,
Srivilliputhur,
Virudhunagar District. .. Respondent/6th Respondent/
Proposed 3rd Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the constitution of India to Set aside the order, dated 01.09.2015 in I.A.No.291 of 2015 in O.S.No.120 of 2009, on the file of the Principal District Munsif Court, Srivilliputhur.

For Petitioner : Mr.B.Rajesh Saravanan
For Respondents : Mr.T.Srinivasa Raghavan
for Mr.M.Karthikeya Venkatachalapathy
for R1 to R4
Mr.G.Muthukannan for R5 & R6

ORDER

This petition under Article 227 of the Constitution of India has been filed by the petitioner seeking to set aside the order dated 01.09.2015 in I.A.No.291 of 2015 in O.S.No.120 of 2009, on the file of the Principal District Munsif Court, Srivilliputhur.



2. Heard the learned counsel for the petitioner and the learned counsel for the respondents. By consent of both sides, the petition is taken up for final disposal.

3. According to the petitioner, the respondents 1 to 4 have filed a suit in O.S.No.120/2009, on the file of the Principal District Munsif, Srivilliputhur, against the revision petitioner and the 5th respondent herein. In the aforesaid suit, the revision petitioner has filed a detailed written statement stating that the alleged channel has been acquired by the 6th respondent, who formed a cremation ground and road in the alleged channel. Therefore, the 6th respondent/proposed party is a necessary party in the aforesaid suit and the application to implead the 6th respondent has been filed by the petitioner in the Interlocutory Application. However, the Court below has erroneously dismissed the application. Against the dismissal of the said application, this petition has been filed.

4. According to the petitioner, to resolve the issues in the suit property, the 6th respondent/proposed defendant also to be impleaded as a party, since the suit property was acquired for the purpose of burial ground by the Adi Dravidar Department. Therefore, they are necessary party to the said proceedings. According to the respondents, the suit has been filed for permanent injunction against the revision petitioner. Already the Tahsildar, who is the 5th respondent herein, is a party to the said suit and was set exparte in the above said suit.

5. According to the respondents, the relief has been claimed only against the revision petitioner and no relief is claimed against the 6th respondent/proposed defendant. The respondents filed the suit only for permanent injunction. Therefore, the Court below has rightly dismissed the application filed by the revision petitioner.

6. The present application has been filed by the revision petitioner to implead the 6th respondent/proposed defendant in the aforesaid suit, namely, the Special Tahsildar, Adi Dravidar Welfare Department. According to the petitioner, the said suit property has been acquired for the purpose of burial ground for the Adi Dravidar by the Adi Dravidar Department. The respondents filed the suit for permanent injunction against the revision petitioner. The claim of the respondents 1 to 4 is only against the revision petitioner and not against the 6th respondent. Already the revision petitioner has filed written statement that the said suit property has been acquired by the Adi Dravida Department. Therefore, the suit filed by the respondents 1 to 4/plaintiffs, had objected for filing the present application to implead the 6th respondent, cannot be entertained by this Court. Therefore, on the basis of the written statement, the revision petitioner can very well establish the case at the time of trial in the suit.

7. At this stage, the petitioner seeks liberty to file additional written statement in the above suit.



8. Therefore, in view of the above facts and circumstances, this Court is not inclined to interfere with the order passed by the Court below.

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9. In view of the above, the Civil Revision Petition is dismissed with liberty to the revision petitioner to file additional written statement, if so advised before the trial Court. No costs. Consequently, CMP.No.102/2016 is closed.

Sd/-

Assistant Registrar(Records)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Principal District Munsif,
Srivilliputhur.
- 2.The Tahsildar,
Taluk Office,
Srivilliputhur,
Virudhungan District.
- 3.The Special Tahsildar,
Aathi Dravidar Welfare Department,
Srivilliputhur,
Virudhunagar District.

+1 cc to MR.B.Rajesh Saravanan ADVOCATE, SR NO:69120

+1 cc to MR.M.Karthikeya Venkatachalapathy ADVOCATE, SR NO:69530

rr

sva/bs/27.02.2017/3p/6c

C.R.P.PD. (MD) .No.21 of 2016
15.11.2016