

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.02.2017**

CORAM

THE HON'BLE MRS.JUSTICE **PUSHPA SATHYANARAYANA**

CRP PD Nos.318 and 319 of 2015
and
M.P.No.1 of 2015

1. P.Subramani
2. Palanisamy .. Petitioners in both
CRPs.

vs

1. N.Velusamy
2. The State rep.by
The District Collector
Erode District
Erode.
3. The Revenue Divisional Officer
Revenue Divisional Office
Erode.
4. The Tahsildar
Erode Taluk, Erode.
5. The Revenue Inspector
Erode West, Nasiyanur
Erode.
6. The Village Administrative Officer
Thaiyirpalayam Village
Thaiyirpalayam, Cithode

Erode Taluk.

7. The Executive Officer
Nasiyanur, Nasiyanur
Erode Taluk.
both

.. Respondents in
CRPs.

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 26.08.2014 passed by the learned I Additional District Munsif, Erode in I.A.Nos.863 in I.A.No.492 of 2013 and I.A.No.864 of 2013 in O.S.No.252 of 2013.

For Petitioners : Mr.M.Guruprasad
in both the CRPs.

For Respondents : Mr.C.S.Saravanan
in both CRPs. for R1

RR2 to 6 - Served
No appearance

COMMON ORDER

Heard the learned counsel appearing for the revision petitioners and the learned counsel appearing for the first respondent. Despite notice being served on respondents 2 to 6, there is no representation on their behalf either in person or

through a counsel.

2. The suit is filed by the first respondent/plaintiff seeking permanent injunction restraining the defendants/Government Officials, their subordinates and successors-in-office from in any manner subdividing the suit property, which is the portion of access of the plaintiff's house in favour of any third party by altering the existing classification as "Road and Water Storage tank".

3. The revision petitioners are third parties seeking to implead themselves in the suit filed by the first respondent/plaintiff, as persons interested in the suit property. According to the proposed parties, they are living in the said village and that they are aware of the utility of the suit property. Since they have a common interest in the subject matter and are necessary parties to the suit, they have filed the above applications. However, the Court below has dismissed the said applications on the ground that the relief has been sought for by the first respondent/plaintiff only against

the Government Officials and the other authorities and not against the proposed parties.

4. At this juncture, I would like to recollect the judgment of this Court reported in **2007(2) CTC 73 [S.Krishnan vs. Rathinavel Naicker and 22 others]** wherein it has been held as follows:

"17. In a nut shell, the tests to be applied for determining the right of a party to implead another, in a pending suit or other proceeding, may be crystallized in to the following categories:

(a) If without his presence no effective and complete adjudication could be made;

(b) If his presence is necessary for a complete and effectual adjudication of the dispute though no relief is claimed against him;

(c) If there is a cause of action against him;

(d) If the relief sought in the suit or other proceedings is likely to be made binding on him;

(e) If the ultimate outcome of the proceedings is likely to affect him adversely;

(f) If his role is really that of a necessary

witness but is sought to be camouflaged as a necessary party;

If a party to a litigation satisfies the court that the person sought to be impleaded, passes any one or more of the above tests, then he is entitled to get the discretion of the Court exercised in his favour. The above tests are not exhaustive and at times, even if a person falls under any one of the above categories, the Court may refuse to implead him. To quote an example, a subsequent purchaser of a property, which forms the subject matter of the suit, may satisfy the tests (d) and (e) above mentioned and yet the Court may decline to implead him on the basis of the doctrine of lis pendens. Therefore, the above list is only a broad statement of the principles that could be culled out from judicial precedents."

5. If the above said principle is applied to the case on hand, it is seen that the relief sought for by the plaintiff is not against the proposed parties and it is also not their case that the outcome of the proceedings would adversely affect their interests. If at all the third parties are really interested in the suit property, it is open to them to file a separate suit either

independently or in the representative capacity and that they cannot join together in the suit filed against the Government officials, claiming themselves to be a necessary party.

6. In view of the above settled proposition of law, I do not find any reason to interfere with the orders passed by the Court below. Accordingly, both these Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

02.02.2017

vj2

Index: yes/No

Internet: yes

To

The I Additional District Munsif, Erode

PUSHPA SATHYANARAYANA,J.,

vj2

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