

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Reserved on 02.09.2016**

**Pronounced on 20.01.2017**

**DATED: 20.01.2017**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN**

**CRP(PD)Nos.1558 and 1559 of 2012**

**and**

**M.P.Nos.1 and 1 of 2012**

**CRP(PD)No.1558 of 2012**

K.Mohanraj

.. Petitioner

Vs.

1.Venkatachalam

2.K.R.Natarajan

3.The District Collector,  
Namakkal.

4.The Block Development Officer,  
Tiruchengode,  
Namakkal District.

5.The President,  
Karumapuram Village Panchayat,  
Karumapuram,  
Tiruchengode Taluk.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated

14.08.2009 made in I.A.No.421 of 2009 in O.S.No.171 of 2008, on the file of the District Munsif Court, Tiruchengode.

**CRP(PD)No.1559 of 2012**

K.Mohanraj

.. Petitioner

Vs.

1.Venkatachalam

2.K.R.Natarajan

3.The District Collector,  
Namakkal.

4.The Revenue Divisional Officer,  
Tiruchengode Taluk,  
Namakkal District.

5.The Tahsildar,  
Tiruchengode,  
Namakkal District.

6.The Block Development Officer,  
Tiruchengode,  
Namakkal District.

7.The President,  
Karumapuram Village Panchayat,  
Karumapuram,  
Tiruchengode Taluk.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 18.02.2010 made in I.A.No.549 of 2009 in O.S.No.283 of 2008, on the file of the Principal District Munsif Court, Tiruchengode.

For Petitioner : Mr.N.Manokaran  
(In both CRPs)

For Respondents : Mr.P.Valliappan (for R1 and R2)  
(In both CRPs)

Mr.T.Jayaramaraj (for R4 to R7)

### **O R D E R**

Heard Mr.N.Manokaran, learned counsel appearing for the petitioner, Mr.P.Valliappan, learned counsel appearing for the respondents 1 and 2 and Mr.T.Jayaramaraj, learned counsel appearing for the respondents 4 to 7 in both CRPs.

2.It is seen from the records that the petitioner herein as Plaintiff filed a suit in O.S.No.283 of 2008 against the respondents herein before the Principal District Munsif Court, Thiruchencode for permanent injunction restraining the defendants, their subordinates from in anyway converting the Odai in S.No.289/9 into Thaar road or Panchayat road or from anyway cutting the Palmirah trees standing in S.No.289/9 and form the road in the plaintiff's patta land in S.No.285/1 and 285/2A or interfere or disturb the plaintiff's peaceful possession and enjoyment of the plaintiff's land. The petitioner herein

has also filed another suit in O.S.No.171/2008 before the District Munsif Court, Thiruchengode against the respondents herein for the relief of permanent injunction restraining the defendants, their men, subordinates, servants from in anyway interfering with the plaintiff's peaceful possession and enjoyment over the suit property by way of encroaching the plaintiff's suit property for forming Panchayat road without following the due process of law.

3.It is further seen from the records that pending the suit, the respondents 1 and 2 herein filed an application in I.A.No.421/2009 in O.S.No.131 of 2008 and I.A.No.549 of 2009 in O.S.No.283 of 2008 seeking to implead themselves as defendants in the respective suit. The petitioner herein filed a detailed counter to the said impleading petition.

4.It is the case of the impleading petitioners in the said I.As that the petitioner herein with hand in glove with the official Respondents herein with a view to defeat and defraud the lawful right of the common cart track enjoyed himself and other villagers over the suit property in S.No.289/9 which is the Odai Poromboke, has filed the vexatious suit with the false and improper particulars by suppressing

the existence of pucca 13 feet cart track. It is the further case of the impleading petitioners that in fact the petitioner herein using the said 13 feet cart track to reach their lands along with the villagers. Apart from that the Devandrar caste people who are living in S.Nos.255, 282, 285/3 and 286 of Karumapuram village. The petitioner herein proclaimed in the village that they are going to destroy and damage the entire common cart track runs in the suit property. The respondents 1 and 2 herein came to know about the pendency of the suit only on 10.04.2009. Therefore they have filed the above impleading petition seeking to implead themselves as proper and necessary parties to the suit for the effective, proper and complete adjudication of the suit. Without impleading them as defendants 6 and 7 in the suit, the real dispute will not come into the light.

5.Per Contra, the petitioner herein filed the Counter to the impleading petition and contended that since he filed the suit for permanent injunction and therefore he has every right to select the defendants as his own. The respondents 1 and 2 herein are not at all just and necessary parties to the suit. Further, the proposed parties have no right to say on behalf of others that the others are using the alleged cart track. The proposed parties are no way connected with the

relief sought for by the petitioner herein in the suit. The Petitioner herein further contended that the suit property is absolutely belongs to him and his family. Therefore the respondents 1 and 2 herein not at all entitled to file the impleading petition, seeking to implead them as parties to the suit.

6.The Lower Court on perusal of the records and upon hearing the arguments on either side, was pleased to allow the impleading petition filed by the respondents 1 and 2 herein and impleaded them as Defendants 6 and 7 in O.S. No. 283/2008 and Defendants 4 and 5 in O.S. No. 171 of 2008 by orders dated 18.02.2010 and 14.08.2009 respectively. Challenging the said order, the present civil revision petitions have been filed by this petitioner.

7.I have gone through the entire available materials on records and carefully considered the arguments on either side. The Petitioner herein has filed two suits in O.S. No. 283/2008 and 171/2008 for the relief of permanent injunction against the official respondents. It is the specific case of the Petitioner herein that he is absolute owner of the land in S.Nos.168/1B, 168/2B, 168/3B, 285/2A and 289/1C of Karumapuram village which is an ancestral property. The revenue

records also stand in his name and he has paid the kist to the Government regularly. It is the further case of the Petitioner herein that he is having agricultural land in S.Nos.285/1 and 285/2A of Karumapuram village. The Defendants are trying to lay the Thar road through the above suit land without following the land acquisition proceedings. Further, there is a Odai Poromboke situated in S.No.289/9 which is situated on the southern side of the Plaintiff's land in S.No.289/1C. The plaintiff's forefathers have 2C patta for the trees standing in the said Odai and the plaintiff is also in possession and enjoyment over the said land for more than 100 years. At the instigation of the enemies of the plaintiff, the defendants are trying to form Thar road in the said Odai. Hence the present suit.

8. On the other hand, it is the case of the impleaded respondents 1 and 2 herein that it is not correct to say that the petitioner herein is the absolute owner of the land situated in S.Nos.168/1B, 168/2B, 168/3B, 285/2A and 289/1C of Karumapuram village. The Defendants never made any attempt to form the Thar road in the suit property as alleged by the plaintiff. The Petitioner herein has also filed another suit in O.S. No. 171/2008 for permanent injunction. Since the impleading petitioners claimed that the villagers, including the impleading

petitioners and Adi-dravidars are using the cart track. The subject matter of the suit filed by the plaintiff is also with regard to the cart track and therefore the impleading petitioners are just and necessary parties to the suit. The finding of the trial court is also perfectly correct to the effect that at the stage of deciding the impleading application, the trial court is not deciding the merit of the suit.

9. At this juncture, it is useful to extract Order 1 Rule 10(2) of C.P.C. which read as follows:

**"10(2) Court may strike out or add parties.** The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectively and completely to adjudicate upon and settle all the questions involved in the suit, be added."

10. The object of Order 1, Rule 10 (2) is to ensure that the dispute is resolved in the presence of all in order to avoid multiplicity of proceedings.

11.The Court under Order 1, Rule 10 clearly states that to implead any party at any stage of proceedings whose presence is necessary for effectually and completely to adjudicate upon and settle all the questions involved in the suit. This was clearly held by the Hon'ble Apex Court in 2005 (11) SCC 403, 2005 (3) Supreme 574 and 2014-1-CCC 628 (Cal.)

“The object of Order 1 Rule 10 is to discourage contests on technical pleas, and to save honest and *bona fide* claimants from being non-suited. The power to strike out or add parties can be exercised by the Court at any stage of the proceedings.”

12.In the said back ground of the case, the Lower Court has rightly come to the conclusion that the impleaded parties are just and necessary parties to the suit for effective adjudication of the suit. There is no scope to interfere with the well considered order passed by the Lower Court. The Petitioner herein has not pointed out any valid reason to reject the impleadment of the Respondents 1 and 2 herein. Therefore, in my consider opinion, the learned District Munsif has right in allowing the impleading application and I do not find any merit in both the Civil Revision Petitions.

13.For the forgoing reasons:

(a) both the Civil Revision Petitions are dismissed, by confirming the order passed in I.A.No.421 of 2009 in O.S.No.171 of 2008, dated 14.08.2009, on the file of the District Munsif Court, Tiruchengode in CRP.No.1558 of 2012 and in I.A.No.549 of 2009 in O.S.No.283 of 2008, dated 18.02.2010, on the file of the Principal District Munsif Court, Tiruchengode in CRP.No.1559 of 2012.

(b) the trial Court is hereby directed to dispose the suit within a period of four months from the date of receipt of a copy of this order.

14.Accordingly, both the civil revision petitions are dismissed.  
No costs. Consequently connected miscellaneous petitions are closed.

**20 .01.2017**

Index:Yes  
Internet:Yes

vs

To  
The Principal District Munsif Court,  
Tiruchengode.

**M.V.MURALIDARAN, J.**

VS

**Pre-Delivery order made in**  
**CRP(PD)Nos.1558 and 1559 of 2012**  
**and**  
**M.P.Nos.1 and 1 of 2012**

**20.01.2017**