



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 28.06.2017
PRONOUNCED ON : 05.07.2017

WEB COPY

CORAM
THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CRP.PD(MD).Nos.2525 and 2526 of 2015

Selvam ...Petitioner in both CRPs / Plaintiff

Vs

1.Balakrishnan
2.Rajagopal
3.Veerakumar

... Respondents 1 to 3 in
CRP.No.2525 of 2015/
Proposal Defendants 2 to 4.

4.Panneer Selvam

... 4th Respondent/1st Defendant

1.Vairavan
2.Thirukumar
3.Mohan
4.Palanivelu

...Respondents in CRP.No.2526 of 2015

Common Prayer:- Civil Revision Petitions filed under Article 227 of the Constitution of India, setting aside the fair and decreetal orders in I.A.Nos.359 and 360 of 2014 in O.S.No.48 of 2013 dated 26.08.2015 on the file of the District Munsif Court of Aranthangi.

For Petitioner in
both CRPs. : Mr.N.Balakrishnan

For RR1 to 3
in both CRPs : Mr.K.Balasundaram

For R.4 in both
CRPs : Mr.V.S.Badrinath

COMMON ORDER

These Civil Revision Petitions are directed against the orders of the trial Court allowing the impleading applications in O.S.No.48 of 2013 and I.A.Nos.359 and 360/2014 on 26.08.2015, holding that the proposed parties are proper parties to the suit for adjudication and it ill



avoid multiplicity of proceedings. Aggrieved by the said orders, the plaintiff has preferred these two Civil Revision Petitions.

2.The plaint in O.S.No.48 of 2013 is laid for declaration of title and for permanent injunction to restrain the defendant from interfering the peaceful possession and enjoyment of the plaintiff over the suit property. As per the plaint averment, the defendant - Mr.R.Paneerselvam taking advantage of his name wrongly included in patta, trying to interfere the peaceful possession and enjoyment of the plaintiff. Whereas, the suit property bearing S.No.171/1A2 extending 2 acres 5 cents belong to the plaintiff and the UDR and patta were issued in his name in the year 1985. While so, the father of the defendant filed a suit for declaration in O.S.366 of 1981 in respect of a portion of the present suit property viz 65 cents in S.No.171/1 A2 and some more properties against the plaintiff and others. The said suit was dismissed on 08.09.2000. It is further averred in the plaint that necessary steps are taken before the revenue authorities to cancel the mutation of patta in the name of the defendant. The defendant has filed his statement in which, he has pointed out that in an earlier suit in O.S.366 of 1981, the plaintiff herein has restricts his right to an extend of 65 cents and had admitted 17 others as joint owners of remaining 1 acre 40 cents.

3.In the light of the above pleadings, the petitioners in I.A.359/2014 namely Balakrishnan, Rajagopal and Veerakumar and the petitioners in I.A.360 of 2014 namely Vairavan, Thirukumar, Mohan and Palanivelu, have sought leave of the Court to get themselves impleaded as defendants in the present suit, since, they are joint pattadhars in S.N.171/1A2 to an extent of 2 acres 5 cents.

4.The trial Court after appreciating the pleadings of the respective parties have held that without impleading the remaining pattadhars, there will not be proper adjudication.

5.This Court finds no illegality in the said finding of the trial Court. In a suit for declaration of title where the earlier proceeding and the issuance of patta wrongly in the name of the defendant are referred and relied, the other joint pattadhars similarly placed as the defendants become necessary parties. Since, something believed that there is likely to happen. Though in a Civil Suit, the plaintiff is the dominus titus; against his wish, no party has right to be impleaded provided, the right of the party sought to be impleaded is now put under cloud. If anybody has a semblance of title to the property which is the subject matter of the suit, he became a necessary party to the suit. What is semblance and title is 'subjective', left to the discretion of the Court which is dealing with the impleading application.



6. In the case on hand, the respondents sought to be get impleaded as they are the joint pattadhars of the suit property and other property, they are similarly placed persons like that of the sole defendant. If they are not allowed to get impleaded to contest the suit and decree passed will have no binding effect on the proposed parties and the same may lead to multiplicity of legal proceedings at the time of execution of the said decree. Therefore, to avoid such eventualities which is likely to happen in all probabilities, it is necessary to allow the impleading applications.

7. In this case, the trial Court has rightly allowed the applications for the reasons stated. There is no scope for this Court to interfere with the orders of the Court below. Accordingly, the Civil Revision Petitions are liable to be dismissed.

8. In the result, the Civil Revision Petitions are dismissed. No order as to costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

The District Munsif Court,
Aranthangi.

+1cc to Mr.K.Balasundaram, Advocate, SR. 63597

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05.07.2017

JBM

KK/MR KKR/SAR2/04.08.2017/3P-3C/