



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(PD) (MD) No.1656 of 2017
and
CMP(MD) No.9241 of 2017

Kathijammal @ Maimoonammal

... Petitioner/1st Respondent/
Plaintiff

vs.

1) State Rep. by
The District Collector,
Pudukottai,
Pudukottai District.

2) The Superintendent of Police,
O/o. Superintendent of Police,
Pudukottai,
Pudukottai District.

3) The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Aranthangi Taluk,
Pudukottai District.

4) The Tahsildar,
Taluk Office,
Manamelkudi,
Manamelkudi Taluk,
Pudukottai District.

5) The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Kottaipattinam,
Pudukottai District.

6) The Inspector of Police,
Manamelkudi Police Station,
Manamelkudi,
Pudukottai District.

... Respondents 1 to 6/Respondents 2 to 7/
Defendants 1 to 6

7) Shiek Dawood



8) Mohamed Abdul Khadar

... Respondents 7 & 8/Petitioner/
proposed 7 & 8/Defendants

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order made in I.A.No.499 of 2017 in O.S.No.153 of 2016 on the file of the District Munsif Court, Aranthangi, Pudukottai District, dated 14.07.2017.

For Petitioner : Mr.M.Suresh
R1 to R6 : Exparte
For R7 & R8 : Mr.S.Muthal Raj

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order made in I.A.No.499 of 2017 in O.S.No.153 of 2016 on the file of the District Munsif Court, Aranthangi, Pudukottai District, dated 14.07.2017.

2.The revision petitioner is the plaintiff in the suit. The case of the petitioner is that respondents 7 and 8 herein filed an application under Order 1 Rule 10 CPC, to implead themselves as defendants 7 and 8 in the suit to proceed further, claiming that they are the legal heirs of their grandfather Mohamed Hanifa and their father Amir Sultan. According to them, the said Mohamed Hanifa had two wives namely, Maimoonammal and Umma Habiba. The revision petitioner/plaintiff claims to be the daughter of Umma Habiba and she filed the suit against the defendants for declaration and permanent injunction. The defendants are Government officials and they were set exparte and when the suit was posted for exparte evidence, the respondents 7 and 8 herein/proposed defendants filed the present interlocutory application seeking to implead themselves as defendants 7 and 8 claiming themselves to be the legal heirs of Mohamed Hanifa and the petitioner has intentionally hidden the legal heirs of the said Mohamed Hanifa and Maimoonammal who are the necessary parties to the suit.

3.The revision petitioner filed counter contending that she does not know the proposed defendants and she is the only legal heir of her father Mohamed Hanifa and her mother namely, Umma Habiba is the only wife of Mohamed Hanifa. She further contended that there are around 20 persons living in the name of Amir Sultan in the village and the proposed defendants created documents that they are the legal heirs of the said Mohamed Hanifa and they are not connected with the suit proceedings and therefore, they are not necessary parties to the suit for proper and final adjudication.



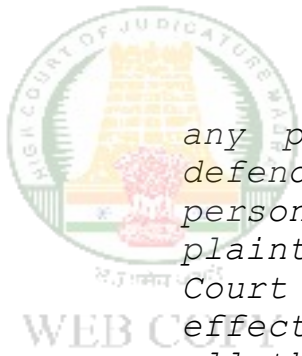
4.The only point which arises for consideration is whether the proposed defendants are necessary parties to the suit or not.

5.Perusal of the records shows that in the impleading application, the revision petitioner marked Exs.R1 to R8 and the respondents 7 and 8 marked Exs.P1 to P4. The proposed defendants claim that they are the legal heirs of their grandfather Mohamed Hanifa and their father Amir Sultan. According to the proposed defendants/respondents 7 and 8 herein, the said Mohamed Hanifa had two wives namely, Maimoonammal and Umma Habiba and their father Amir Sultan born to Mohamed Hanifa through his first wife namely, Maimoonammal and the revision petitioner is the daughter born to Mohamed Hanifa through his second wife namely, Umma Habiba. The petitioner as plaintiff has filed the suit for declaration and permanent injunction against the defendants/government officials and they were set exparte and when the suit was posted for exparte evidence, the respondents 7 and 8 filed petition to implead themselves without the legal heirship certificate and according to the petitioner, she has filed the suit only against the Government officials. According to the proposed defendants/respondents 7 and 8 herein, the petitioner has filed the suit intentionally hiding the legal heirs of Mohamed Hanifa and Amir Sultan.

6.Perusal of the records further shows that in support of their contentions, the respondents 7 and 8 produced their Voters Identity Cards which were marked as Exs.P2 and P3 respectively and Ration Card as Ex.P1. Perusal of the documents Exs.P1 to P3 marked on the side of the proposed defendants would show that they are the sons of Amir Sultan S/o. Mohamed Hanifa. They also marked Ex.P4 issued by Masidulhida South Street Jamath dated 15.04.2017 which shows that Mohamed Hanifa had a son namely, Amir Sultan through his first wife Maimoonammal and through his second wife namely, Umma Habiba, he is having the daughter who is the revision petitioner herein and therefore, the respondents 7 and 8 claim that they are the legal heirs of Mohamed Hanifa and their father Amir Sultan and hence, they are necessary parties to the above suit. Whereas, the petitioner as plaintiff claims that she is the only daughter of Umma Habiba. The documents marked by the revision petitioner show only about the properties with encumbrance certificates and no document is produced to show that the petitioner is the daughter of Mohamed Hanifa. Both the parties did not produce the documents that they are legal heirs of Mohamed Hanifa.

7.At this juncture, it is relevant to extract below Order 1 Rule 10(2) CPC:-

"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 effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.''

8. In the present case, the respondents 7 and 8 have filed a petition to implead themselves stating that they are the legal heirs of their grandfather Mohamed Hanifa and their father Amir Sultan and the revision petitioner contended that they are not the legal heirs of Mohamed Hanifa. Therefore, whether the respondents 7 and 8 are the grandsons of Mohamed Hanifa and sons of Amir Sultan and whether they are necessary parties to the suit can be decided in the suit proceedings and if the respondents 7 and 8 are not impleaded, then, the suit cannot be decided effectively. In my considered opinion, the impugned order passed by the learned Judge does not warrant any interference.

9. Accordingly, this Civil Revision Petition is dismissed. No costs. The interim order already granted is vacated. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Aranthangi,
Pudukottai District.

+ 1 cc TO Mr. M. Suresh , Advocate in SR No. 47321
+ 1 cc TO Mr. Na. Palaniyandi , Advocate in SR No. 47037

bala

AE/SV MMS/SAR2/06.03.2018/4P/4C

CRP (PD) (MD) No. 1656 of 2017
08.02.2018