

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAIWAMY

C.R.P.(PD).No.3146 of 2013

and M.P.No.1 of 2013

Dhanakotti Ammal

... Petitioner

Vs.

- 1.Shanmugam
- 2.Sundaramoorthy
- 3.Pachiyappan
- 4.Vadivel
- 5.Arumugam
- 6.Ayyasamy
- 7.Chinnathambi

8.The Tahsildar,
Tiruvannamalai.

9.The Revenue Divisional Officer,
Tiruvannamalai.

... Respondents

Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 28.11.2012 made in I.A.No.159 of 2012 in O.S.No.128 of 2010 on the file of the Principal District Munsif, Tiruvannamalai.

For Petitioner : Mr.T.Dhanasekaran

For Respondents : Mr.M.Balamurugan (R1 to R7)

R8 & R9 - no appearance

ORDER

Challenging the fair and final order passed in I.A.No.159 of 2012 in O.S.No.281 of 2010 on the file of the Principal District Munsif, Tiruvannamalai, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.281 of 2010 for permanent injunction on 19.08.2010 and the defendants filed their written statement on 11.02.2011. The issues were framed on 04.03.2011 and thereafter, the suit was posted for trial on 03.11.2011. P.W.1 was examined in chief and when the suit was posted for cross examination of P.W.1, the defendants filed an application in I.A.No.159 of 2012 to implead the Tahsildar, Tiruvannamalai and the Revenue Divisional Officer, Tiruvannamalai as defendants in the suit. In the affidavit filed in support of the petition, the defendants have stated that the proposed parties are proper and necessary parties, therefore, they should be impleaded. The plaintiff filed her counter and contested the application. The trial Court, taking into consideration the case of both parties, allowed the application.

3.On a perusal of the materials available on record, it could be seen that the plaintiff has not sought for any relief against the Government and it is also the discretion of the plaintiff to decide as against whom the suit has to be

filed and the defendants do not have any right to decide as against whom the plaintiff should file the suit. In the absence of any cause of action made against the Government by the plaintiff, the Government Officials cannot be made as defendants in the suit. That apart, there is no averment in the plaint with regard to the Government Officials and in view of the same, the proposed parties cannot be said as proper and necessary parties. The trial Court erroneously allowed the impleading petition.

4.For the reasons stated above, the order passed by the trial Court is liable to be set aside. Accordingly, the same is set aside. The Civil Revision Petition is allowed.

5.Since the suit is pending from the year 2010, I direct the Principal District Munsif, Tiruvannamalai to dispose of the suit in O.S.No.281 of 2010, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes
Speaking /Non Speaking Order
va

27.09.2019

C.R.P.(PD).No.3146 of 2013

M. DURAISWAMY,J.

va

To

1.The Principal District Munsif, Tiruvannamalai.



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