

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA  
C.R.P. (PD) .No.3525 of 2017

Subramaniyan

... Petitioner/3<sup>rd</sup> Party

Vs.

1. Arulmozhi

...1<sup>st</sup> Respondent/ Plaintiff

2. Manivasagam

3. Neelamegam

4. Tamizhselvan

5.Rani

... Respondents 2 to 5/Defendants 1 to 4

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and final order of the II Additional District Court, Chidambaram dated 31.08.2017 made in I.A.No.111 of 2017 in O.S.No.18 of 2012.

For Petitioner : Mr.S.Sounthar

For Respondents: Mr.G.Pugazhenthil for R2 to R5

No appearance for R1

O R D E R

The above civil revision petition has been filed by the third party to implead himself as a party in the suit for partition claiming to be a cultivating tenant under the third and fourth respondents and the said application was dismissed by the Court stating that he is not a proper and necessary party in the suit. Challenging the same, the revision petitioner has filed the present civil revision petition.

2. When the matter was called in the morning session the respondents sought pass over stating that the learned senior counsel was engaged in some other court, once again when the matter was called at 2:30 p.m. none appeared on behalf of the respondents. Considering the short points involved in this civil revision petition, this Court is inclined to dispose of the civil revision petition and the facts necessary for disposing of the civil revision petition are as hereunder.

3. The first respondent has filed a suit for partition against the respondents 2 to 5. The revision petitioner sought to implead himself as a party to the suit since he is a cultivating tenant under defendants 3

& 4 and therefore in the event of the property being allotted to the other parties and not to this landlord. he would be subject to orders of eviction, therefore he sought to be impleaded in the proceedings. Along with the Civil Revision Petition, the petitioner also filed documents, which includes the lease deed of the respondents for payment of arrears to the father of the second respondent as well as the receipts issued by the 3rd respondent.

4. In the counter that has been filed by the plaintiff before the trial Court he would submit that it is true that revision petitioner was a cultivating tenant that he had subsequently ceased to be a tenant and this has been rightly upheld by the Court below on the ground that no documents have been produced by the petitioner to show that he is a registered cultivating tenant.

5. The petitioner has produced unregistered lease deed to show that he is cultivating some of the properties and he entered into lease deed with the respondents 2 and 3 and the learned Judge has not adverted to the rental receipts which has been marked right up from the year 2016.

6. Be that as it may, this court is of the considered view that though the revision petitioner may not be necessary party for proceedings, however he is a proper party to the proceedings and therefore he has to be impleaded as a party defendant. The revision petition is allowed and the order passed by the Court below is set aside. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

dpq

To

The IIInd Additional District Court,  
Chidambaram  
+1cc to Mr. G.Pugazhenth, Advocate SR.No. 34848

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A.SK (03/06/2019)