



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 07.06.2019
DELIVERED ON : 30.07.2019

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CORAM :
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.789 of 2019
and
C.M.P. (MD) No.4856 of 2019

K.Mariappan ... Petitioner/ Petitioner/
Proposed 3rd defendant
Vs.
1.K.Shanmugavelpandian ... 1st respondent/ 1st respondent/
Plaintiff
2.The District Collector,
District Collector Office,
Thoothukudi
3.The Tahsildar,
Taluk Office,
Vilathikulam and Taluk,
Thoothukudi District. ... Respondents 2 & 3/Respondents 2 & 3/
Defendants

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, against the order, dated 20.03.2019, passed in I.A.No.1 of 2019 in O.S.No.26 of 2018 by the learned District Munsif cum Judicial Magistrate, Vilathikulam.

For Petitioner : Mr.R.Devaraj
For respondents 2 & 3 : Mr.M.Pandiarajan,
Addl. Government Pleader

ORDER

This Civil Revision Petition has been filed by the revision petitioner / 3rd party against the order, dated 20.03.2019, whereby and whereunder the Court below dismissed the petition filed by the petitioner/3rd party seeking to implead him as 3rd defendant in the suit.

2. The first respondent/plaintiff filed the suit in O.S.No.26 of 2018 for declaration that his father name is Karuppasamy Thevar @ <https://hccs.cemil.gov.in/services/> against the respondents 2 and 3 herein. While so, the petitioner herein filed I.A.No.1 of 2019 seeking to implead him as a third defendant in the suit. The Court below has dismissed the



said application holding that the petitioner is not a necessary party to decide the issue involved in the suit. Aggrieved by the same, the present Civil Revision petition has been filed by the petitioner.

3. The learned counsel for the petitioner /3rd party submitted that based on the complaint given by the petitioner to the effect that the first respondent has joined as Warden in the Tamil Nadu Adi-draavidar Welfare Department, Chennai, suppressing the factum of name of his father - Karuppasamy Thevar, an enquiry has been initiated by the Adi-draavidar Welfare Department, in which the petitioner was also examined and the complaint is still pending. While so, the first respondent has filed the present suit suppressing the complaint lodged by the petitioner. As the cause of action for the suit filed by the first respondent is based only on the complaint given by the petitioner, the petitioner is a necessary party to the suit. But, the Court below, without considering the same, has erroneously dismissed the petition filed by the petitioner. Thus, he prayed to allow this petition.

4. Heard the learned Additional Government Pleader appearing for the respondents on the submission made by the learned counsel for the petitioner.

5. It is the case of the first respondent that his father name is Karuppasamy Thevar @ Chellaiah Thevar, but in the school record, the name Chellaiah Thevar alone mentioned as his father name and since he is a Government employee and in order to avoid any confusion in the future with regard to his father name, he has filed the suit for declaration that his father name is Karuppasamy Thevar @ Chellaiah Thevar. According to the first respondent, there is a civil dispute pending between himself and the petitioner, and that he lodged a criminal complaint against the petitioner, and the complaint given by the petitioner alleging that the first respondent has suppressed his father name before the employer, has already been closed as false by the Ad-draavidar Welfare Department and now, in order to wreck vengeance, he filed this petition.

6. According to the petitioner, he is a necessary party to be impleaded in this case, because of his complaint alone the suit has been cropped up. Merely because, the issue involved in the suit has been cropped up by the complaint given by the petitioner, he cannot become a necessary party or proper party. Necessary party is one without whom no order can be effectively passed and proper party is one who is necessary for final decision of question involved in the proceeding. For deciding the issue involved in the suit, the petitioner is neither a necessary party nor a proper party. Further, the decision, which will be taken in the suit, will not in any way affect the petitioner herein. The Court below has rightly dismissed the petition filed by the petitioner. This Court does not find any reason to interfere with the findings of the Court below. There is no merit in this petition.



7. In the result, this Civil Revision Petition is dismissed.
No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The District Munsif cum Judicial Magistrate,
Vilathikulam.

+1 CC to Mr.R.DEVARAJ, Advocate (SR-78613[F] dated 30/07/2019)

order made in
C.R.P. (PD) (MD) No.789 of 2019
30.07.2019

GCG

MK (06.08.2019) 3P 3C