



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2018

(Reserved on 27.06.2019)

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANUCRP(PD) (MD)No.2763 of 2015

WEB COPY

- 1) Chinnathai
- 2) Samikannu
- 3) Ammakannu
- 4) Umaidurai
- 5) Chinnaponnu
- 6) Poun
- 7) Bothuraja

... Petitioners/Plaintiff
Respondents 2 to 8

vs.

- 1) P.Vijayapandian
- 2) E.Jeyaramapandiyan
- 3) V.Raja
- 4) P.Raj
- 5) R.Selvam
- 6) A.Vellaichamy
- 7) State of Tamil Nadu represented
through its District Collector, Madurai.
- 8) Thasildar, Vadipatti.

... Respondents/Respondents
Defendants 1 & 2

Petition filed under Article 227 of the Constitution of India, to call for the entire records of the suit I.A.No.148 of 2008 in O.S.No.317 of 2008 on the file of District Munsif cum Judicial Magistrate, Vadipatti, and set aside the order passed in I.A.No.148 of 2008 in O.S.No.317 of 2008 dated 30.11.2012 and allow this revision petition by dismissing the execution petition.

For Petitioner : Mr.K.Muraleedharan
For R1 to R5 : Mr.PT.S.Narendravasan
For R6 : Disd VCO Dt.04.09.2017

ORDER

One Oorinaicker as plaintiff has filed a suit in O.S.No.71/2003 [later numbered as O.S.No.317/2008] before the District Munsif, Madurai. In the suit, only the District Collector, Madurai, and the Tahsildar, Vadipatti, were arrayed as defendants 1 and 2.

2. The relief sought for in the suit is for declaration of title to the suit property in favour of the plaintiff and a



direction to the defendants to restore the peaceful possession and enjoyment of the property to the plaintiff.

3.The suit property is located in an extent of 4 acres, 22 cents in S.No.314 over which, there was a temple (Malaikovil) which is claimed to be the plaintiff's private temple.

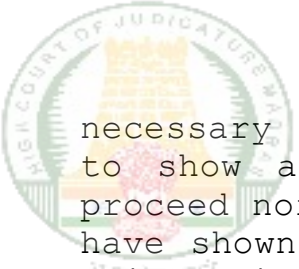
4.The plaintiff died during the pendency of the suit and the legal heirs who were impleaded subsequently, are the revision petitioners. During the pendency of the suit, the respondents 1 to 6 as proposed parties filed an application to implead themselves in I.A.No.148/2008 in O.S.No.317/2008 and the said application was allowed. Challenging the order passed dated 30.11.2010 allowing the impleading application, the present revision petition has been filed.

5.In the impleading petition, the proposed parties have disputed the title of the plaintiffs over the suit property. The specific claim made is that the property over which the temple is situated, is a Government poramboke land and that the temple is the public temple and not the private temple of the plaintiffs. The further claim is that the entire villagers have got a right to worship in the temple.

6.The rights, title and interest of the plaintiffs over the suit property is disputed by the proposed parties. The trial Court has considered the rival claims made by the proposed parties and has given a specific finding that the presence of the proposed parties is necessary to enable the Court to effectively and completely adjudicate and to settle all the questions involved in the suit. Rightly, the Court has held that no prejudice would be caused to the plaintiffs if the proposed parties are impleaded and on the other hand, the rights of the proposed parties would be prejudiced, if they are not impleaded in the suit.

7.Having regard to the nature of the defence taken by the proposed parties and considering that there is a claim that the temple is a public temple, it is all the more necessary that the proposed parties have to be impleaded and rightly did so by the Court below.

8.The revision petitioner has relied on a decision of the Hon'ble Supreme Court in **Kanaklata Das and others vs. Naba Kumar Das and others, Civil Appeal No.3018 of 2008 dated 25.01.2018**, and has raised a contention that no person can compel the plaintiff to allow such person to become the co-plaintiff or defendant in the suit. The revision petitioner has misunderstood the decision and in the very same decision in the very same paragraph, it has been pointed out that the plaintiff cannot be compelled to implead somebody only when such person is unable to show how he is a



necessary or proper party in the suit and such party is expected to show as to how without his presence, the suit can neither proceed nor it can be decided. In this case, the proposed parties have shown how they are necessary and proper parties. Therefore, this decision has no application to the facts and circumstances.

9. Therefore, the revision petition has no merits and the revision petition is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Munsif cum Judicial Magistrate,
Vadipatti.

2. The District Munsif, Madurai.

3. The District Collector, Madurai.

4. The Tahsildar, Vadipatti.

+1 CC to Mr. PT. S. NARENDRAVASAN, Advocate SR-78443.

CRP (PD) (MD) No. 2763 of 2015

30.07.2019

CS (08.08.2019) 3P 6C