



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) (MD)No.191 of 2017

and

C.M.P. (MD)Nos.877 and 11259 of 2017

WEB COPY

Sathik Batcha ... Petitioner / 3rd party / 1st defendant

Vs.

1.Arif Raja ... Respondent / Petitioner / Plaintiff

2.The Tahsildar,
Madurai East Taluk,
Othakkadai Village,
Madurai East Taluk,
Madurai District.

3.The Revenue Divisional Officer,
Office at Collectorate Campus,
Madurai Town
Madurai District.

4.The District Revenue Officer,
Office at Collectorate Campus,
Madurai Town,
Madurai District.

5.The District Collector,
District Collector Office,
Madurai. ... Respondents / respondents 2 to 4 /
respondent 2 to 5

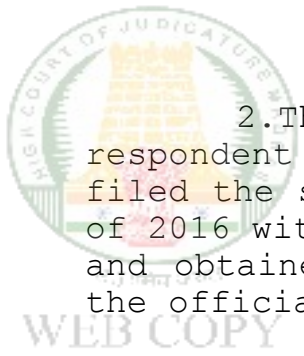
Prayer: The petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.No.31 of 2016 in O.S.No.12 of 2016 dated 16.08.2016 on the file of the District Munsif court, Melur.

For Petitioner	: Mr.M.Kannan
For Respondents	: Mr.J.Alaguramjothi for R1
	: Mr.R.Sethuraman,
	Special Government Pleader
	for RR2 to 5

ORDER

This Civil Revision Petition has been filed against the order dated 16.08.2016 passed in I.A.No.31 of 2016 by the District Munsif court, Melur.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The 1st defendant is the revision petitioner and the first respondent is the plaintiff in O.S.No.12 of 2016. The plaintiff filed the said suit against the first defendant and filed I.A.No.31 of 2016 without impleading the revision petitioner / first defendant and obtained an interim order not to alter the revenue records by the official respondents 2 to 5 herein.

3.By virtue of the said order, the interest of the revision petitioner is affected. Further, as per Rule 29 of Civil Rules of Practice, the first respondent / plaintiff has to implead the revision petitioner / first defendant in I.A.No.31 of 2005. However, without doing so, behind his back, the first respondent / plaintiff obtained the interim order, which is illegal and hence, the petitioner is before this Court with the present Civil Revision Petition for setting aside the same.

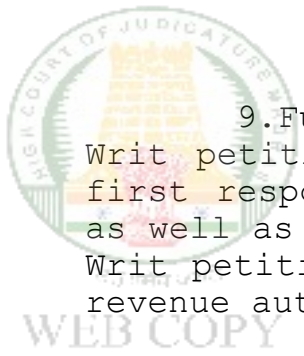
4.On the other hand, the learned counsel appearing for the first respondent would contend that the respondents 2 to 5 filed counter in I.A.No.31 of 2005 stating that they are not going to effect any mutation in the revenue records. After recording the averments made in the counter, the Court below passed the interim order, directing the respondents 2 to 5 not to effect any mutation in the revenue records. Therefore, the rights of the first defendant will not be affected due to the said order.

5.However, the learned counsel appearing for the revision petitioner would contend that the petitioner is the first defendant in the suit, he ought to have impleaded in I.A.No.31 of 2016 and the intention of the plaintiff is a deliberate one in order to obtain an interim order against the revision petitioner.

6.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

7.The revision petitioner is the first defendant in the suit and the I.A.No.31 of 2016 was filed by the plaintiff by impleading the respondents 2 to 5 alone, without impleading the petitioner / first defendant.

8.In terms of Rule 29 of Civil Rules of Practice, it is mandatory for the parties to the suit that if any party files any application, it is mandatory to implead all the parties to the suit in the said application. Such mandatory requirement is not followed in the present case. Further, the revision petitioner is not a formal party to the said application and any order passed in the said application, it would affect the interest of the revision petitioner. Such being the case, the first respondent / plaintiff's failure to implead the petitioner / first defendant which according to this Court is a deliberate one and further, the Court below failed to consider all these aspects and granted the interim order in the manner without hearing the petitioner.



9. Further this Court has also taken into consideration the Writ petition in W.P.(MD)No.22483 of 2015, which was filed by the first respondent / plaintiff by impleading the revision petitioner as well as the respondents 2 to 5 as party respondents. In the said Writ petition, this Court declined to grant any order directing the revenue authorities to alter revenue records.

10. When such being the case, the first respondent / plaintiff filed the above I.A.No.31 of 2016 and obtained the interim order without impleading the revision petitioner / first respondent to alter the revenue records by the official respondent Nos.2 to 5, which is totally illegal. Hence, this Court is of the opinion that obtaining the order without impleading the revision petitioner, who is necessary party and whose interest will be affected by virtue of altering the revenue records merely impleading only the respondents 2 to 5, who are the official respondents and obtaining the order to alter the revenue records is totally illegal and the same is liable to be set aside. Therefore, the said order passed in I.A.No.31 of 2016 is liable to be set aside

11. Accordingly, this Court set aside the order dated 16.08.2016 passed in I.A.No.31 of 2016 by the District Munsif Court, Melur. However, granting liberty to the first respondent to file a fresh application for the aforesaid relief by impleading revision petitioner as one of the party to the said application. On filing such application, the District Munsif is hereby directed to dispose of the same on merits and in accordance with law after hearing all the parties concerned.

12. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected C.M.Ps. are closed.

Sd/-
Assistant Registrar (Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

nbj

To
The District Munsif Court, Melur.

+1 CC to M/s.M.KANNAN, Advocate (SR-88926[F] dated 24/09/2019)
+1 CC to M/s.GP (SR-89362[F] dated 25/09/2019)

C.R.P. (MD)No.191 of 2017
24.09.2019