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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (PD) (MD) No.670 of 2011

and

M.P (MD) No.1 of 2011

- 1) Sithi Fathima (Died)
- 2) Paparathi Ammal
- 3) Abdul Jabbar
- 4) Sara Begum
- 5) Mohamed Jahir Hussain
- 6) Shahul Hameed
- 7) Mumtaj Begum

... Petitioners

(Petitioners 3 to 7 brought on record as LR's of the deceased 1st petitioner vide order dated 8.1.2018 in CMP.11287 to 11289/17)

vs.

- 1) K. Seeni Syed Ibrahim
- 2) S.S.S. Sulthan Marakayar
- 3) Kannan
- 4) Sathmeeth Seelan

... Respondents

Petition filed under Article 227 of the Constitution of India, against the fair and executable order passed in I.A.No.10/2011 in O.S.No.86/2010 dated 28.01.2011 in the court of the District Munsif, Rameshwaram in Ramanathapuram District.

For Petitioner	: Mr.J.M.Hassanul Bazari
For R1	: Mr.T.R.Jeyapalam
For R2 & R3	: Mr.S.A.Ajmal Khan
R4	: No appearance

ORDER

This Civil Revision Petition is filed against the dismissal of the impleading petition.

2.The facts of the case are that the 1st respondent/plaintiff filed the suit against the respondents 2 to 4/defendants for declaration and permanent injunction in respect of the suit property. Pending suit, the petitioners 1 and 2 filed a petition to implead themselves in the suit. The Court below dismissed the impleading petition, against which, the proposed parties have filed this revision.

3.Learned counsel for the petitioners would contend that the suit property originally belonged to one Seeni Asanar Maraikayar and the suit property being portion of joint family properties, the petitioners are also entitled to one share each along with the heirs



of Seeni Adanar Maraikayar, but without considering the same, the Court below dismissed the impleading petition. Therefore, he prays to allow this revision by setting aside the impugned order.

4. Learned counsel for the 1st respondent/plaintiff would submit that the suit property is belonged to the 1st respondent only and the revision petitioners has no right over the suit property and only to protract the proceedings they filed impleading petition to implead themselves in the suit and the 1st respondent/plaintiff has filed the suit claiming relief only against the defendants and the proposed parties are not necessary parties to the suit. If at all the proposed parties have right over the suit property, it is for them to establish the same by filing separate suit and the learned Judge has rightly dismissed the impleading petition which does not require any interference by this Court.

5. Learned counsel for the respondents 2 and 3/defendants 1 and 2 would contend that the suit property is belonged to the 2nd respondent/1st defendant and the proposed parties have not produced any documents how they are related to the suit property and therefore, they are not necessary parties to the suit and accordingly their impleadment is not warranted. Therefore, he prays for dismissal of the revision petition.

6. Heard both sides and perused the records.

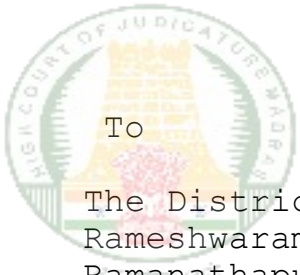
7. Perusal of record shows that the petitioners sought to get impleaded in the suit on the premise that the suit property is the property of Senni Asanar Maraikayar and they are entitled to each one share. However, the plaintiff and defendants in the suit claim individual right on them. The suit is for declaration and permanent injunction. It is a settled law that the plaintiff is entitled to suit the litigation against the person who cause inconvenience to his possession. The plaintiff being dominant litus, has a right to choose the parties against whom he has to seek relief and when it is not his case that the revision petitioners are interfering with his possession and enjoyment of the suit property, their impleadment in the suit is unnecessary and it is only an attempt to drag on the proceedings. There is no infirmity in the order passed by the learned Judge.

Accordingly, this Civil Revision Petition is dismissed. no costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //



To

The District Munsif,
Rameshwaram,
Ramanathapuram District.

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+1cc to Mr.J.M.Hassanul Bazari,Advocate, SR.No.59510

+1cc to Mr.T.R.Jeyapalam,Advocate, SR.No.59976

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SP/29.04.2019/ 3P/4C

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