

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(PD) No.1305 of 2013

and

M.P.No.1 of 2013

S.S.Murugesan

...Petitioner

..Vs..

1.Somasundaram

2.The District Collector,
Namakkal

3. The Revenue Divisional Officer,
Tiruchengode

4.The Tahsildar,
Tiruchengode

...Respondents

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order of the Additional District Munsif Court at Tiruchengode dated 26.02.2013 in I.A.No.28 of 2011 in O.S.No.228 of 2010.

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For Petitioner : Mr.P.Valliappan

For R1 : No appearance

For R2 to R4 : Mr.S.Jaganathan,
Government Advocate

ORDER

Mr.S.Jaganathan, learned Government Advocate takes notice on behalf of respondents 2 to 4.

2. Heard the learned counsel for the petitioner. In respect of the first respondent, paper publication has been effected and proof filed, but none appeared.

3. The first respondent filed a suit in O.S.No.228 of 2010 on the file of District Munsif Court, Tiruchengode for declaration to declare that the plaintiff's pathway right over and upon 'A' schedule suit property and also for injunction restraining the defendant from interfering with the use of the pathway.

4. Pending suit, the revision petitioner herein filed I.A.No. 28 of 2011 seeking to implead himself in the suit on the ground that he had purchased the lands in S.No.209/5 in Rajapalayam village by way of sale deed and his vendor was enjoying the property which is classified as 'Kallanguthu poromboke' by cultivation and hence, he made an application to the Revenue Authorities for assigning the cultivating rights and grant of patta and the said application is in the process.

5. Suppressing the above material facts, he has preferred the suit by without impleading him as a party and therefore, he has also stated that unless he was impleaded in the suit, final adjudication of the dispute cannot be decided. However, the learned District Munsif, Tiruchengode, taking into consideration the facts observed that it is for the plaintiff to disprove the defence and dismissed the application. Hence, this Civil Revision Petition.

6. On a perusal of the prayer in the suit in O.S.No.228 of 2010 and the averments made in I.A.No.28 of 2001 and the nature of the relief sought for in the suit and taking into consideration that he has obtained the property and made necessary application before the Revenue Authorities, I am of the considered view that the Civil Revision Petitioner is a necessary party for adjudication. Accordingly, order in I.A.No.28/2011 is set aside and he is directed to implead himself as a defendant No.4 in the suit within a period of four weeks. For filing written statement three weeks thereafter and for framing issues and the trial shall be completed within a period of twelve weeks thereafter.

7. In the result, this Civil Revision Petition is allowed.

No costs. Consequently, connected M.P is closed.

04.02.2020

nvi

Index:Yes/No

Speaking Order:Yes/No

To

The Additional District Munsif Court, Tiruchengode

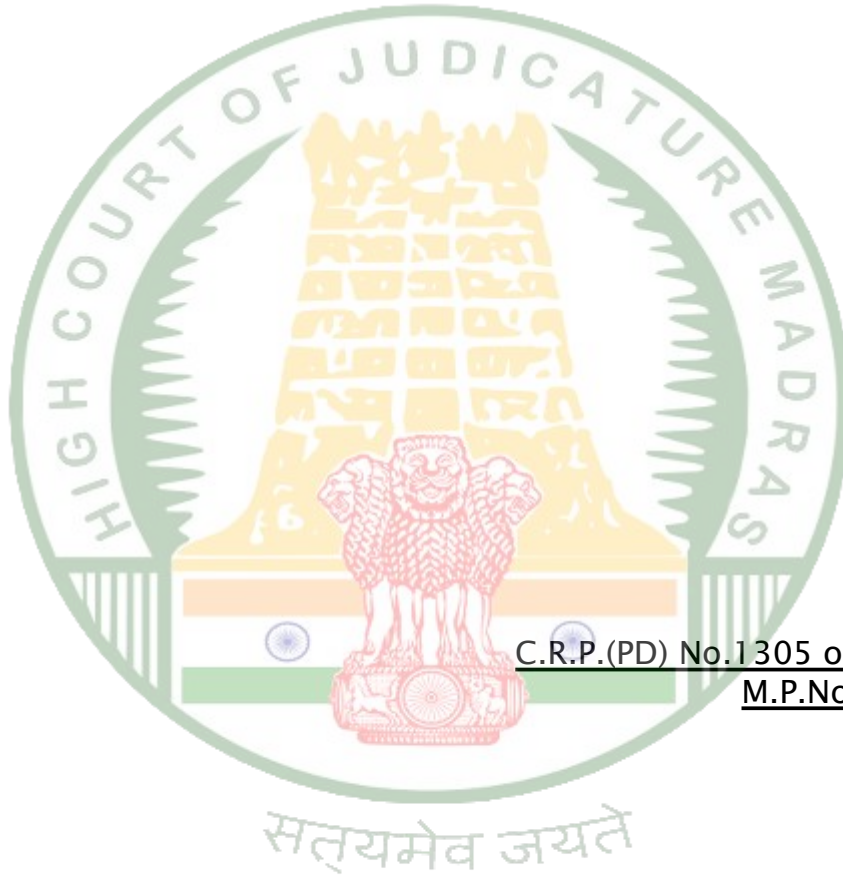


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RMT.TEEKAA RAMAN,J.,

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