



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P.(PD) (MD)No.1998 of 2015 and
M.P.(MD)No.1 of 2015

- 1.Arumugammal
- 2.Nachiyarammal
- 3.Krishnaveni
- 4.Vijayalakshmi
- 5.Murugan
- 6.Lakshmi Narayanan
- 7.Dhanalakshmi
- 8.Rajesh
- 9.Kumar

: Petitioners/Petitioners/
Proposed Defendants 13 to 21

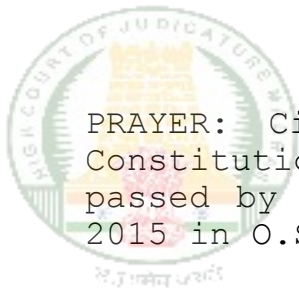
.. Vs ..

- 1.Achammal
- 2.Chinnaya
- 3.Seenivasan
- 4.Ramasubbu
- 5.V.T.S.Ramasubbu
- 6.Kanagaraj
- 7.Subbulakshmi Ammal
- 8.Ayyammal
- 9.Jegannathan
- 10.Somasundaram
- 11.Saravanan
- 12.Varadharajan
- 13.Serman
- 14.Alagar
- 15.Narayanasamy
- 16.The District Collector,
Tuticorin District, Tuticorin.

: Respondents 1 to 5/Respondents 1 to 5
Plaintiffs

- 17.Chidambarapuram Village Panchayat,
through its President,
Kovilpatti,
Tuticorin District.

: Respondents 6 to 17/Respondents 6 to 17/
Defendants 1 to 12



PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order and decreetal order passed by the learned District Munsif, Kovilpatti in I.A.No.571 of 2015 in O.S.No.178 of 2012, dated 10.08.2015.

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For Petitioners	:Mr.R.Devaraj
For R1, R3 to R7, R11 to R15	:No Appearance
R2, R8 to R10	:Dismissed
For R16	:Mr.J.Gunaseelan Muthiah Additional Government Pleader
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ORDER

This Civil Revision Petition is directed against the order passed by the learned District Munsif, Kovilpatti in I.A.No.571 of 2015 in O.S.No.178 of 2012, dated 10.08.2015.

2.The revision petitioners are third parties to the suit in O.S.No.178 of 2012, which is pending on the file of the District Munsif Court, Kovilpatti. The suit is for declaration that the plaintiffs are the joint owners in respect of suit 1st schedule property and for recovery of a portion of suit 1st schedule property encroached by defendants 11 and 12 in the said suit.

3.The revision petitioners are third parties to the suit. However, they filed an application to implead them as defendants 13 to 19 in the suit. In the affidavit filed in support of that petition, the revision petitioners stated that the suit property is the joint property of plaintiffs' grandfather, by name, Manna Naicker and his brother, Atcha Nayakkar. It is further stated that the plaintiffs in the suit as well as the revision petitioners are descendents of Manna Naicker and Atcha Naicker and that therefore, the suit without impleading the revision petitioners may affect their interest in the suit property. It is further stated that the petitioners are proper and necessary parties, as they are entitled to protect their right and establish their co-ownership over the suit property. The lower Court dismissed the application filed by the revision petitioners to implead them in the suit. Aggrieved by the same, the above revision petition is filed.

4.The prayer in the suit is for declaration of joint ownership of plaintiffs over suit property. It is to be seen that the plaintiffs themselves admitted that the suit property belonged to Manna Naicker and Atcha Naicker and that they are sons of their descendents, who are also entitled to joint ownership over the suit



property along with others. From the reading of plaint, the definite case of the plaintiffs is that the suit property belongs to the descendants of Manna Naicker and Atcha Naciker including the plaintiffs. Therefore, the rights of petitioners is not under threat, as apprehended by the revision petitioners.

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5.A suit for declaration of joint ownership of plaintiffs and the consequential relief against the encroachers is maintainable. Further, a co-owner is entitled to file a suit against the stranger, who encroached the suit property. Such a suit is not barred for non joinder of necessary parties, who are also entitled to claim ownership over the suit property. Further, the relief is against encroachers and the scope of litigation need not be expanded at the instance of revision petitioners. Though the petitioners in certain circumstances may be permitted to be on record, as proper parties, having regard to the position that the petitioners' title is not in dispute, this Court is of the view that the petitioners' presence is not necessary in the peculiar circumstances. Hence, this Court does find any merit in the revision petition, as the order dismissing the petition to implead the revision petitioners in the suit is perfectly in order, especially when liberty is given to the petitioners to seek appropriate remedy by way of separate suit or proceedings as against the plaintiffs in the suit in O.S.No.178 of 2012. It is also to be remembered that the plaintiff is *dominus litis* to decide against whom he wants relief. The grant of relief does not affect the interest of petitioners. Since they are not parties, any judgment or decree or findings in the suit does not bind them.

6.As a result, this Civil Revision Petition is dismissed and the order passed by the learned District Munsif, Kovilpatti in I.A.No.571 of 2015 in O.S.No.178 of 2012, dated 10.08.2015, is confirmed. It is open to the revision petitioners to establish their rights as against the plaintiffs as co-owners if a cause of action arise.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cmr

To

1.The District Munsif,
Kovilpatti.

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



2. The District Collector,
Tuticorin District,
Tuticorin.

Copy to: The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2)

+1 CC to the SPL GP (SR-16893[F] dated 15/09/2020)

+1 CC to Mr.R.DEVARAJ, Advocate (SR-17001[F] dated 15/09/2020)

C.R.P.(PD)(MD)No.1998 of 2015

14.09.2020

SCR(CO)

CS(23.09.2020) 4P 7C