



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2020

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.R.P. (PD) (MD) No. 705 of 2017

and

C.M.P. (MD) .No.3179 of 2017

1.N.S.Hasan Aliyar

2.G.Tamilsevan

... Petitioners/Respondents/Plaintiffs

vs.

1.Sarabudin

2.Mohamedhasali

... Respondents/Petitioners/3rd party

3.N.Sadhiq Batcha

4.The District Registrar

Office at Vaiseyal Street,
Ramanathapuram Taluk,
Ramanathapuram District.

5.The Revenue Divisional Officer,

Office at G.H Road,
Ramanathapuram District.

6.The Tamil Nadu Government,

Sethupathi Nagar,
Chennai Head Office,
Represented by the
District Collector

... Respondents/Petitioners/Plaintiffs

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records of the fair and decreetal order passed by the learned District Munsif, Ramanathapuram, Ramanathapuram District in I.A.No.605 of 2015 in O.S.No.185 of 2014 dated 03.12.2016 set aside the same.

For Petitioners : Mr.RM.Arun Swaminathan

for M/s.Chettinad Legal Solutions

For Respondents : No appearance



ORDER

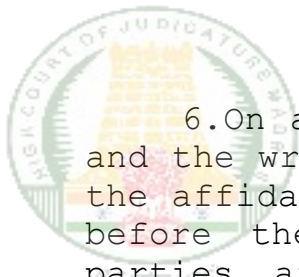
This Civil Revision Petition is filed against the order dated 03.12.2016 passed in I.A.No.605 of 2015 in O.S.No.185 of 2014 by the learned District Munsif, Ramanathapuram, Ramanathapuram District.

2.The petitioners, who are the plaintiffs, have filed a suit in O.S.No.185 of 2014 for permanent/temporary injunction against the respondents 3 to 6. During the pendency of the suit, the respondents 1 and 2 had filed an application in I.A.No.605 of 2015 for impleading them in the suit. The said I.A was allowed by the trial Court. Challenging the said order passed by the trial Court, the petitioners are before this Court.

3.The learned counsel appearing for the petitioners submitted that the suit for bare injunction has been filed by the petitioners against the respondents 3 to 6. The respondents 1 and 2, who are the proposed parties are in no way connected with the said suit and they do not have any interest over the property. Since the suit is for bare injunction, the respondents 1 and 2 are neither the necessary parties nor the proper parties. Therefore, they are not the necessary parties to the suit and in their absence, the Court can pass an effective judgment. The trial Court has failed to consider the role of the respondents 1 and 2 and simply allowed the application, which warrants interference by this Court.

4.Heard the learned counsel appearing for the petitioners and perused the materials available on record.

5.Admittedly, the petitioners have filed a suit for bare injunction in O.S.No.185 of 2014 before the District Munsif, Ramanathapuram District. During the pendency of the suit, the respondents 1 and 2 herein had filed a petition to implead themselves as parties to the suit. According to the respondents/proposed parties, the suit properties originally belonged to Late.Mohamed Kasim and Katti Mohamed and the father of the petitioners is the only legal heir of Mohamed Kasim. Katti Mohamed had two sons viz., Anwar Khan and Rabiudin and all of them are jointly entitled to the suit properties and a joint patta was issued in their favour in Patta No.6846. Suddenly, one Hasan Ali's name was included along with the said three persons and joint patta was given in favour of four persons in Patta No.7847 and the said document was marked as Ex.P.3. It is stated by the learned counsel for the petitioners that the suit is filed only for bare injunction and to implead the proposed parties in the suit is not necessary.



6.On a careful reading of the plaint filed by the petitioners and the written statement filed by the respondents 3 to 6 and also the affidavit filed by the proposed parties and the document filed before the trial Court, this Court finds that the proposed parties are the necessary parties in the suit. The proposed parties are impleaded as the defendants to the suit and no prejudice would be caused to the petitioners/plaintiffs. The plaintiffs have to prove their case on their own. Therefore, mere impleading of these persons cannot cause any prejudice to the petitioners.

7.Under these circumstances, this Court does not find any reason to interfere with the order passed by the trial Court and there is no perversity in the order passed by the trial Court. There is no merit in the revision and hence, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The District Munsif,
Ramanathapuram, Ramanathapuram District.
2. The District Registrar
Vaiseyal Street, Ramanathapuram District.
3. The Revenue Divisional Officer,
G.H Road, Ramanathapuram District.
4. The District Collector, Ramanathapuram District.

Copy to:

The Record Keeper, VR Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+1 CC to M/s.RM.ARUN SWAMINATHAN, Advocate (SR-10195[F] dated 05/03/2020)

C.R.P. (PD) (MD)No.705 of 2017

and

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AE (13.05.2020) 3P 8C