



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.01.2021

CORAM

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THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

C.R.P(MD)No.2077 of 2010
and M.P(MD) No. 1 of 2010

Ismail

...Petitioner/Petitioner/3rd Party

Vs.

1.M.Mohammed Ghouse (Died)
2.Kamala Beevi
3.Najimunisha Begam
4.Asif Begam
5. Rajeeeya Begam
6.Hameem Begam

... Respondents 1 to 6/Respondents 1 to 6/
Plaintiffs

7.Fathima Beevi
8.Suthaiya Begam
9.InbalJeganara Begam
10.Nazim Basha
11.Mazood Basha @ Babu
12.Nazeema
13.Shanawaz Jabinara Begam
14.Jeenath
15.Mohamed Nawaj

... Respondents 7 to 13/
Respondents 7 to 13/Defendants

(RR14& 15 are brought on record as lrs of deceased 1st respondent vide order dated 4.8.2020 made in CMP(MD)No.1490 to 1492 of 2014)

PRAYER:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 03.09.2010 in I.A.No.309 of 2010 in O.S.No.496 of 2007 on the file of the II Additional District Munsif Court, Tirunelveli.

For Petitioner	:	Mr.D.Nallathambi
For R2 to R4	:	Ms.Sivadharshini Kannappan for Mr.M.P.Senthil
For R7	:	Mr.Saji Bino

O R D E R

This revision is at the instance of the third party to O.S.No.496 of 2007. Challenge is to an order dismissing his application for impleading himself in the suit.



2. The suit is laid for declaration of the plaintiffs' title to the suit property. The ground for impleading is that the petitioner is a necessary party to the suit because one of the boundaries to the suit property is shown as the property belonging to the plaintiffs in the suit over which the petitioner is claiming certain right.

3. This application was opposed by the plaintiffs contending that the petitioner is not a necessary party since no relief is sought for in respect of the property which is shown as one of the boundaries of the suit property. Southern boundary of the suit property is shown as vacant land and land with foundation of the property that belonging to the plaintiffs. According to the petitioner, this land with foundation belongs to him and not to the plaintiffs. Therefore, according to the petitioner, he should be impleaded in the suit and the plaint should be amended by the plaintiffs seeking their rights in respect of the southern boundary also. The trial court has rightly dismissed the application on the ground that Order 1 Rule 10(2) C.P.C is not meant for such purpose.

4. I have heard Mr.D.Nallathambi, learned counsel appearing for the petitioner and Ms.Sivadharshini Kannappan, learned counsel appearing for Mr.M.P.Senthil, learned counsel for the respondents 2 to 4 and Mr.Shaji Bino, learned counsel appearing for the 7th respondent.

5. Mr.D.Nallathambi, learned counsel appearing for the petitioner would vehemently contend that the trial court was not right in dismissing the application for impleading. The issue is that there is another suit between the plaintiffs and the petitioner herein with reference to the property situated on the south of the suit property. Therefore, according to him, he is a necessary party to the present suit.

6. I am unable to countenance the contention of the learned counsel for the petitioner. In the suit, the plaintiffs seek a declaration of their title with reference to the property situated within 4 boundaries as against the defendants. If there is a dispute with reference to the property shown as one of the boundaries of the suit property, that dispute should be resolved among the parties and the petitioner, who is not a party to the suit, cannot be heard to contend that he is a necessary party to the suit. No doubt Order 1 Rule 10(2) C.P.C empowers the Court to implead the parties at any stage of the proceedings. The said power has to be exercised within the 4 corners of the rule. In order to get the benefit of the provision, it should be demonstrated that the person, who is sought to be impleaded is either necessary or property party to the suit. In the absence of the property shows as southern boundary being made subject matter of the suit, the petitioner at no stretch of imagination be a necessary or



proper party to the suit. The petitioner really wants to enlarge the scope of the suit by seeking impleading in the suit. His impleading would, in fact, force the plaintiffs to sue for certain reliefs against him which they do not want. I do not see any illegality or irregularity in the order of the trial court.

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7. In fine, this revision is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(CS-II)

/True copy/

/ /2021
Sub Assistant Registrar(CS-)

To:

The II Additional District Munsif,
Tirunelveli.

Copy To: The Section Officer,
VR Section
High Court of Madras
Madurai Bench. (2 Copies)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-1066[F] dated 19/01/2021)

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18.01.2021

CM
PK/10.02.2021 : 3P/5C