



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI
C.R.P. (MD) .Nos.359 & 360 of 2021 &
CMP (MD) Nos.7063 & 7113 of 2021

K.A.Bose

... Revision Petitioner/
Respondent/Defendant

vs.

N.Baskaran

... Respondent/
Petitioner/Plaintiff

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and ex-order dated 14.12.2020 passed by the learned District Munsiff, Vadipatty in (i) IA.No.531 of 2020 in IA.No.947 of 2019 in OS.No.131 of 2014 and (ii) IA.No.532 of 2020 in OS.No.131 of 2014.

In both petitions

For Petitioner :Mr.A.John Xavier

For Respondents :Mr.Kavirasan for N.Baskaran

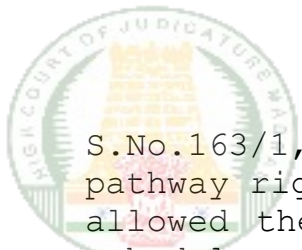
C O M M O N O R D E R

The revision petitioner / defendant has filed these revision petitions to set aside the order dated 14.12.2020 passed by the learned District Munsiff, Vadipatty in IA.No.531 of 2020 in IA.No.947 of 2019 in OS.No.131 of 2014 and IA.No.532 of 2020 in OS.No.131 of 2014.

2. IA.No.532 of 2020 was filed by the plaintiff to amend the suit Survey Number as 163/1 instead of 163/2. IA.No.531 of 2020 was filed by the plaintiff to amend the petition in IA.No.947 of 2019.

3. Both the issues are to be decided together. Hence, common order is passed in the two revision petitions.

4. The respondent / plaintiff filed suit for declaration and injunction regarding a pathway. Originally the suit schedule property was mentioned as S.No.163/2 in the plaint. Thereafter, the plaintiff filed amendment petition to amend the same as S.No.163/1. According to the plaintiff's case, the pathway is in existence in



S.No.163/1, it belongs to the Government and he is claiming only pathway right in S.No.163/1. The learned District Munsiff, Vadipatty allowed the amendment petition. But, instead of amending the suit schedule property as S.No.163/1, the learned Judge included both S.Nos.163/2 and 163/1 in the plaint. The case of the plaintiff is that he claims pathway right in only one Survey Number. Hence, including both S.Nos.163/2 and 163/1 in the plaint is improper. Further, since S.No.163/1 is poramboke land, Government is a necessary party to the suit. Hence, there is nothing wrong in impleading the Government in the suit.

5. Finally, the Civil Revision Petitions are partly allowed. The order passed in IA.Nos.531 and 532 of 2020 are modified to the effect that (i) The suit schedule property mentioned in the plaint as S.No.163/2 is corrected as 'S.No.163/1' and (ii) S.No.163/2 is deleted from the schedule of property in the plaint. Further, the respondent / plaintiff is directed to file impleading petition as ordered by the learned District Munsiff, Vadipatty to implead the Government as party. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mbi

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Munsif,
Vadipatty.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-32336[F] dated 25/10/2021)

+2 CC to M/s.A.JOHN XAVIER, Advocate (SR-32653[F] dated 26/10/2021)

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