



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.04.2021

Pronounced on : 01.07.2021

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRP (PD) (MD) .No. 875 of 2020 and
CMP (MD) No. 5802 of 2020

M. Selvam : Petitioner / plaintiff

Vs.

1.E.P. Kamaraj

2.The District Collector,
Office of the District Collectorate,
Karur District, Karur.

3.The District Revenue Officer,
Officer of the District Collectorate,
Karur District, Karur.

4. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Kulithalai Taluk and Town Po.
Karur District.

5.The Tahsildar,
Office of the Revenue Taluk Office,
Kulithalai Taluk and Town Po.
Karur District.

6. The Village Administrative Officer,
Office of the VAO office,
Vaikainallur Village,
Kulithalai,
Karur District.

7.The Superintendent of Police,
Office of the Superintendent of Police,
Karur District.



8.The Deputy Superintendent of Police (Crime Branch) ,
Office of the District Crime Branch,
Superintendent Police office Campus,
Karur District.

9.The Inspector of Police (Crime Branch),
District Superintendent of Police Campus,
Karur District.

10.The Sub Registrar,
Office of the Sub Registration,
Kulithalai Taluk and Town Po.
Karur District.

11. Ravichandran

12.The Commissioner,
Panchayat Union,
Kulithalai,
Karur District.

13.The President,
Vaikainallur Panchayat,
Pudupalayam,
Kulithalai Taluk,
Karur District.

14.R. Ramasamy

15.R. Narayansamy

16. The Tamil Nadu State Government,
Rep. by its District Collector,
Collectorate, Karur.

(R16 is impleaded vide Court order dated 16.12.2020
made in CMP(MD).No.6638 of 2020 in

CRP(MD).No.875 of 2020 : Respondents 2 to 15 / defendants

PRAYER:- Civil Revision Petition filed under Article 227 of the
Constitution of India as against the fair and decreetal order dated
28.09.2020 passed in I.A.No. 1047 of 2019 in O.S.No. 203 of 2015 on
the file of the District Munsif Court, Kulithalai.

For petitioner	: Mr. D. Nallathambi
For Respondents	
2 to 10 to 13,16	: Mr. J. Gunaseelan Muthaiah
For R1,12 14 and 15	: Mr.S.Jeyavel



ORDER

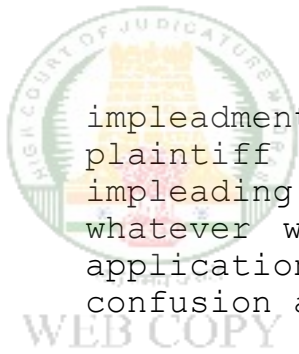
The Civil Revision is directed against the order passed in I.A.No. 1047 of 2019 in O.S.No. 203 of 2015, dated 28.09.2020 allowing the application filed under Order 1 Rule 10 CPC.

2. The revision petitioner is the plaintiff and he filed the suit in O.S.No.203 of 2015 against the respondents 2 to 15 claiming the reliefs of declaration in respect of "A" and "B" schedule properties, permanent injunction in respect of "C" schedule properties and for mandatory injunction directing the defendants 1 to 4 for effecting necessary name changes in pursuance of the sale deeds of the plaintiff.

3. It is evident from the records that when the above revision was taken up for admission, this Court by observing that the Government should be made as a party in terms of Order 27 Rule 5A CPC has directed the petitioner to file necessary application before the trial Court to implead the Government represented by the District Collector, even though the District Collector has been arrayed as the first defendant and accordingly, 16th respondent was impleaded.

4. Pending suit, third party / first respondent has filed an application in I.A.No.1047 of 2019 under Order 1 Rule 10 CPC claiming to be the President, Parents Association of Government Adi Dravidar Welfare High School, Kottamedu, for his impleadment as a defendant in the suit and the learned trial Judge, after enquiry, has passed the impugned order on 28.09.2020 allowing the impleading application. Aggrieved by the said order, the plaintiff has come forward with the present revision.

5. The main contention of the third party / proposed party is that the suit property and the adjoining properties were owned by the then Zilla Board i.e., Government and in a portion of the Government land Adi Dravidar Welfare school was constructed to uplift the education of the remote village people and the remaining place was kept vacant for future extension of the school and for public usage like Thrashing field, that some unlawful elements like Rajasamy encroached and had created some fake fraudulent documents within his family and subsequently, he has alienated the same to some real estate people, who began to whittle down into nothing, that public awareness flared up and committees such as encroachments land rescue committee, School Students Association have been fighting tooth and nail with the real estate people, that proposed party is also having same interest as the Government has and that they have to express their grievance and for that purpose, they should be given an opportunity to take part in the proceedings and to produce their documents, that the proposed party has to be impleaded for proper adjudication of the suit and that the



impleadment would not cause any prejudice to the plaintiff. The plaintiff has filed the counter statement seriously opposing the impleading of the third party alleging that he has no connection whatever with the suit property and that he has filed the above application at the instigation of the some persons to create confusion and to make unlawful gain.

6. The plaintiff, claiming to be the purchaser of the suit properties from the defendants 13 and 14, by alleging that the revenue authorities were attempting to interfere with the plaintiff's rights and possession of the suit properties, has laid the above suit. In the plaint itself, he has specifically stated that some antisocial elements had announced to take agitations against the revenue as if the plaintiff and the defendants 13 and 14 were attempting to grab the Government property, that the 10th defendant had conducted some sort of enquiry to satisfy those persons and that subsequently, he lodged a complaint to the District Superintendent of Police, who is the 6th defendant and on that basis, First Information Report came to be registered in Crime No. 17 of 2015 as against the plaintiff and the defendants 13 and 14.

7. As already pointed out, the plaintiff has filed the suit against the Government Officials from Revenue, Panchayat, Police and Registration Departments and arrayed them as defendants 1 to 9 and 11 and 12. The Government officials have filed their separate written statement and whereunder they have raised serious charges and allegations against the plaintiff and the defendants 13 and 14 as if they are attempting to grab the suit property, which is a Government property. The specific defence is that the suit land was used as a thrashing ground by the public, as "Kadhirkalam" was constructed under TV Scheme at the cost of Rs.2,00,000/- and till date, it is used as a thrashing ground and it is Government Promboke. It is their further case that the Adhi Diravidar Welfare High School is situated abutting North to the suit property and the Headmaster, public people, Tamil Nadu Pettror Aasiriyar Kazagam, Kottamedu, Grama Kalvi Kuzu have represented to the District Collector, Karur to give the suit property (Government Promboke) on 22.09.2003 for the expansion and development of the school.

8. In the plaint, the plaintiff has alleged that his predecessors in title have already filed three suits in O.S.Nos. 116 of 1994 against the Headmaster of Adi Diravidar Welfare School, O.S.No. 469 of 1996 against the Commissioner of Panchayat Union, Kulithalai and O.S.No. 403 of 2004 against the Commissioner of Panchayat Union and President of Vaigainallur Panchayat in respect of suit "A" and "B" schedule properties and according to the plaintiff, all the three suits were decreed in favour of his predecessors in title. It is the specific defence of the Government officials that the documents referred by the plaintiff



Government, that all the revenue records available stand in the name of the Government and that all the transactions behind the back of the Government are all null and void.

9. According to the defendants, the disputed land is kept for the Government purposes / public purposes only in future and public were also making many representations for upgrading the Adi Diravidar Welfare High School and the same is under the consideration of the Government. As rightly contended by the first respondent / third party side in the earlier three suits, the plaintiff's predecessor in title had managed to get decrees as the defendants therein had remained *exparte* and that since, except the respondents 13 and 14 who are the vendors of the plaintiff, the other defendants are the Government officials, the presence of the third party, who is the President of the Parents Association is very much necessary to safeguard the suit property, in the interest of public.

10. No doubt, the third party / first respondent, admittedly, has no right or interest in the suit property in his individual capacity and if the suit properties are the Government properties as alleged by the defendants 1 to 13, then it cannot be said that the third party / first respondent, is not having any right or interest over the suit property. Whether the suit property is the private property or the Government property are the aspects that can be gone into and decided only at the trial.

11. Order 1 Rule 10 CPC enables the Court to add or substitute any person as party at any stage of the proceedings, if the persons whose presence before the Court is necessary in order to enable the Court effectively and completely adjudicate upon and settle all the questions involved in the suit. It is well settled principle of law that the plaintiff being the *dominus litus*, it is for the plaintiff to identify the parties against whom he has any dispute and to implead them as defendants in the suit filed for necessary relief and that he cannot be compelled to face litigation with the persons against whom he does not wish to fight and against whom he does not claim any relief. But, at the same time, the doctrine of *dominus litus* should not be over stretched in the matter of impleading of parties, as it is the duty of the Court to decide that if for deciding the real matter in dispute, a person is a necessary party, the Court can direct such person to be impleaded. Merely because the plaintiff does not choose to implead a person is not sufficient for rejection of an application for being impleaded.

12. It is pertinent to mention that the provision of Order 1 Rule 10(2) CPC are very wide and the powers of the Court are equally extensive. The Court itself in the absence of any application for impleadment of a party, at any stage of proceedings, order that the name of any party, who ought to have been joined, whether as plaintiff or defendant whose presence may



be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added. No doubt, the third party / first respondent cannot be considered as a necessary party, but, definitely he is a proper party, as his presence is also necessary. Generally, a person is added as a proper party, so as to enable the Court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. In case, if the party is not impleaded as a proper party then chances are there that after conclusion of trial he may be approached the Court afresh with the grievance that he was not impleaded in the previous suit. The other reason is that he can be impugned by the result of the action in a given suit.

13. In the present case, considering the nature of the rights claimed by the plaintiff in the suit property and the defence taken by the Government officials, the third party being the President of the Parents Association is a proper party to be impleaded. It is evident from the pleadings of the rival parties that since the Public, Parent Teachers Association of the Adi Diravidar Welfare School, Encroachment lands rescue committee and school students Association had conducted agitations, the First Information Report came to be registered against the plaintiff and the defendants 13 and 14. As rightly contended by the Government side, the impleadment of the present third party would not cause any prejudice to the plaintiff and it will only help the plaintiff, if succeeded, to get a Judgment and Decree binding on all the parties.

14. Considering the above, the decision of the learned trial Judge in allowing the impleadment of the third party cannot be found fault with. Consequently, this Court decides that the revision is devoid of merits and the same is liable to be dismissed.

15. In the result, the Civil Revision Petitions is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

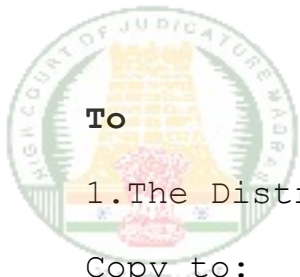
Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

trp



To

1.The District Munsif Court, Kulithalai.

Copy to:

The Section Officer,
VR Section,

MADURAI BENCH OF MADRAS HIGH COURT **(2 Copies)**

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-21104[F] dated 02/07/2021)

+1 CC to M/s.SPL GP (SR-21237[F] dated 05/07/2021)

Pre-delivery order made in
CRP (PD) (MD) .No. 875 of 2020 and
CMP (MD) No. 5802 of 2020

01.07.2021

RKN (29.07.2021) 7P 6C