



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 13.12.2021**

**CORAM :**

**THE HONOURABLE MS.JUSTICE P.T.ASHA**

**C.R.P. (MD) No.1277 of 2019**

**and**

**C.M.P. (MD) No.7048 of 2019**

**WEB COPY**

Periyanayaki

... Petitioner/Petitioner/  
Proposed 2<sup>nd</sup> Defendant

vs.

1.S.K.Venkattassala Pandian

2.Vaijeyanthi Mala

... Respondents 1 & 2/Respondents 1 & 2/  
Plaintiffs

3.Logambal Achi

... 3<sup>rd</sup> Respondent/3<sup>rd</sup> Respondent/  
1<sup>st</sup> Defendant

**PRAYER:-** This Petition is filed under Section 227 of the Constitution of India, to call for the records relating the against fair order and decreetal order dated 22.04.2019 made in I.A.No.3 of 2019 in O.S.No.10 of 2009 on the file of the learned District Munsif, Devakottai and set aside the same.

For Petitioner : Mr.K.Sivabalan

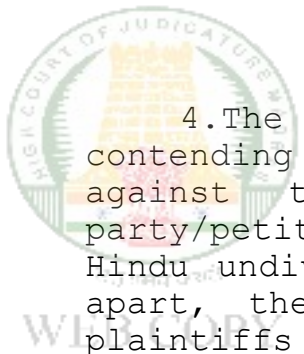
For Respondents : Mr.S.Madhavan

**ORDER**

The third party is before this Court, challenging the order passed by the learned District Munsif, Devakottai, dismissing her application to implead herself as a party to the suit in O.S.No.10 of 2009.

2.The facts in brief are as follows:-

3.The respondents 1 and 2 herein had filed the suit in O.S.No.10 of 2009 for bare injunction in respect of the property measuring an extent of 32½ cents comprised in S.No.B1/124 part of Devakottai Town, Sivagangai District within the specified four boundaries. The plaintiffs would claim a right to the suit property as legal representatives of one Muthaiah Srinivasan, to whom the suit property had been allotted under a registered deed of partition dated 13.03.1947. The defendant, who had no manner of the right for title to the suit property, was attempting to interfere with the plaintiffs' possession and therefore, the suit. The defendant had filed a written statement denying the claim of the plaintiffs and setting up title on herself. While so, the petitioner herein has filed an application to implead herself as the 2<sup>nd</sup> defendant. She would submit that she is the mother of the plaintiffs and is also entitled to a share in the suit property along with the plaintiffs. The plaintiffs without impleading herself have filed the suit. Therefore, she is an interested party, who should be impleaded as a party to the proceedings.



4.The 3<sup>rd</sup> respondent/1<sup>st</sup> defendant had filed a counter *interalia* contending that the plaintiffs were colluding together and acting against the interest of the 1<sup>st</sup> defendant. The proposed party/petitioner herein and the plaintiffs are living together as a Hindu undivided family. The suit is one for bare injunction. That apart, the suit is at the evidence stage. On 29.10.2018, the plaintiffs had filed an application for reopening the evidence. After the evidence was reopened and a new document was filed, the present petition has been filed. This is nothing but an attempt to protract the proceedings.

5.The learned District Munsif, Devakottai on considering the records dismissed the application stating that the proposed party was not a necessary party to the proceedings. Challenging the same, the revision petitioner is before this Court.

6.Heard the learned counsels on either side.

7.The suit in question is a suit for bare injunction, where the plaintiffs would submit that they are in possession and their possession has been interfered with by the defendants. The proposed party is the mother of the plaintiffs. The suit is not one for declaration. In these circumstances, when the issue involved is only one for showing possession, there is no necessity to implead the proposed party and the learned Judge has rightly dismissed the said application.

8.I therefore find no reason to interfere with this well considered judgment of the Court below. Consequently, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mm

To  
The District Munsif, Devakottai.

+1cc to Mr.K.SIVABALAN,Advocate, SR.No.38531 DATED:14.12.2021

+1cc to Mr.S.MADHAVAN,Advocate, SR.No.38950 DATED:15.12.2021

**C.R.P. (MD) No.1277 of 2019**

**13.12.2021**

**VR** (CO)

GC (03.01.2022) 2P 4C

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