



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD)No.118 of 2014

WEB COPY

A.Manoranjitham

... Petitioner/Petitioner/
4th Defendant

Vs.

1.18 Pattarai (Jathiyar) Community Trust,
Srirangam,
Represented by its Trustee
Srinivasan

... 1st Respondent / 1st Respondent/
Plaintiff

2.C.A.M.Kumarasamy

... 2nd Respondent / 2nd Respondent
3rd party proposed 5th Defendant

Prayer:- Civil Revision Petition filed under Section 115 CPC., to set aside the order dated 23.09.2013 passed in I.A.No.119 of 2013 in O.S.No.815 of 1999 on the file of the I Additional District Munsif, Tiruchirappalli.

For Petitioner : Mr.R.Nandakumar

For Respondents : Mr.G.Balumahendran, for R2

ORDER

This Civil Revision Petition has been filed to set aside the order dated 23.09.2013 passed in I.A.No.119 of 2013 in O.S.No.815 of 1999 on the file of the I Additional District Munsif, Tiruchirappalli.

2.The petitioner is the fourth defendant in the said suit. The first respondent herein is the plaintiff in the suit. The first respondent/ plaintiff filed the suit against the (i) The District Collector, Trichy, (ii)The Tahsildar, Srirangam Taluk, Srirangam, Trichy and (iii)The Commissioner, Municipal Corporation, Trichy, for declaration and injunction, restraining from their peaceful possession. During the pendency of the said suit, the petitioner herein had filed a petition to implead herself in the suit as fourth defendant. The said petition was allowed and she was impleaded as fourth defendant. Subsequently, she filed another petition to implead one C.A.M.Kumarasamy, Auditor/third party, as fifth defendant in the said suit.



3.It is stated that the petitioner has been in possession and enjoyment of the property found in S.F.No.2361. The proposed fifth defendant/third party, at the instigation of the plaintiff, has been interfering with the peaceful possession and enjoyment of the said property. Therefore, the petitioner herein filed the petition to implead the proposed fifth defendant. The said petition was dismissed by the trial Court, challenging the order of the dismissal in I.A.No.119 of 2013, the petitioner has filed the present Revision Petition before this Court.

4.The learned counsel for the petitioner would submit that the proposed fifth defendant is a necessary party to the suit and without his presence, no effective order can be passed. Therefore, he has to be impleaded. At the instigation of the plaintiff, the proposed fifth defendant is interfering with the peaceful possession of the petitioner's property. The trial Court without considering the same, dismissed the petition in I.A.No.119 of 2013, which warrants interference.

5.The learned first respondent / plaintiff would submit that originally the suit was filed against the Government for declaration and injunction. At that stage, the present petitioner filed a petition as third party to implead herself in the suit and the same was allowed. After the same and in order to protract the case, she also filed another application in I.A.No.119 of 2013 to implead the proposed fifth defendant in the said suit. The proposed fifth defendant is absolutely in no way connected with the suit. If at all the petitioner is in possession of the property and the proposed fifth defendant is interfering with the possession, then the petitioner herein has to file a separate suit against him and not by filing a petition under Order 1 Rule 10(ii) of CPC, to implead the proposed fifth defendant in the said suit, who is totally a stranger to the said suit. There is no cause of action arose as against the third party /the proposed fifth defendant. Therefore, the trial Court rightly dismissed the petition for impleading, in I.A.No.119 of 2013.

6.Perused the records.

7.Admittedly, the first respondent herein, originally filed a suit for declaration and injunction against the defendants 1, 2 and 3 in O.S.No.815 of 1999. During the pendency of the suit, the petitioner herein filed an application to implead herself, as one of the defendants namely, the fourth defendant and the said petition was allowed and the petitioner was impleaded as fourth defendant in the suit. She has filed another application to implead a third party as fifth defendant namely, one CMA.Kumarasamy, Auditor, in the suit. The petitioner herein stated that the proposed fifth respondent/third party, at the



instigation of the plaintiff, is trying to interfere with the peaceful possession and enjoyment of the petitioner's property. The said petition was dismissed by the trial Court.

8.As rightly observed by the trial Court the suit filed by the first respondent herein against, the (i)The District Collector, Trichy, (ii)The Tahsildar, Srirangam Taluk, Srirangam, Trichy and (iii)The Commissioner, Municipal Corporation, Trichy, for declaration. Though the petitioner subsequently filed a petition to implead herself as one of the defendant, now the main contention of the petitioner in the said petition in I.A.No.119 of 2013, is to implead a third party as fifth defendant, who has been interfering with the possession and enjoyment of the petitioner's property at the instigation of the first respondent /plaintiff.

9.It is a dispute between the petitioner and the proposed fifth defendant /third party. The said dispute is nothing to do with the suit filed by the first respondent herein against the Government and therefore in the suit, the proposed fifth defendant is neither a necessary party nor a proper party. If at all the petitioner is having any grievance or cause of action against the proposed party, she can very well file a separate suit as against the proposed party. Therefore, this Court is of the view that there is no perversity, illegality or infirmity found in the order passed by the Trial Court, warranting interference by this Court. Therefore, there is no merit in the Civil Revision Petition and the same is liable to be dismissed.

10.Accordingly, this Civil Revision Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 I Additional District Munsif, Tiruchirappalli.

2.The Record keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.NANDAKUMAR, Advocate (SR-40302[F] dated 23/12/2021)

+1 CC to M/s.R.YAMUNA, Advocate (SR-40362[F] dated 23/12/2021)

C.R.P. (MD) No.118 of 2014

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NSN (CO)

SB(11.01.2022) 4P 6C