



CRP.(PD).No. 2726 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

**THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI**

C.R.P.(PD).No. 2726 of 2019

and

CMP.No. 17955 of 2019

V.Ganesan

.. Petitioner

Versus

Sivakamiammal

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 27.04.2019 made in I.A.No. 324 of 2018 in O.S.No. 331 of 2009 on the file of Additional District Munsif (FAC), Tindivanam.

For Petitioner : Mr.T.Dhanasekaran

For Respondent : Mr.S.Saranraj

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**ORDER**

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This Civil Revision Petition is filed against the order dated 27.04.2019 made in I.A.No. 324 of 2018 in O.S.No. 331 of 2009 on the file of Additional District Munsif (FAC), Tindivanam and to set aside the same.

2. The petitioner herein is the plaintiff in the original suit and the respondent is the third party who sought to be impleaded as one of the defendants in the original suit.

3. The petitioner/plaintiff has filed the suit in O.S.No.331 of 2009 before the Additional District Munsif Court, Tindivanam, for the relief of declaration and permanent injunction. During the pendency of the suit proceedings, the respondent/third party filed I.A.No.324 of 2018 under Order 1 Rule 10 of the Code of Civil Procedure to implead herself as a defendant in the suit proceedings. After perusing the records, the trial Court allowed the said application by order dated 27.04.2019. Aggrieved by the aforesaid order, the revision petitioner has filed the present revision.



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4. The learned counsel appearing for the petitioner submitted that the trial Court erroneously permitted to implead the proposed party/third party as one of the defendants in the suit proceedings without any proper reason after framing of the issues. He further submitted that the trial Court ought to have rejected the application under Order 1 Rule 10 of CPC., which is not maintainable, as the proposed defendant is not necessary party to the suit proceedings. Therefore, he prays to allow this revision.

5. Heard both sides and perused the materials available on record.

6. On a perusal of the records, it reveals that the petitioner/plaintiff filed the suit in O.S.No.331 of 2009 before the Additional District Munsiff, Tindivanam, for declaring that the petitioner/plaintiff is the absolute owner of the suit property and also to restrain the defendants 1 to 8 from alienating the suit property to third parties. After commencement of the trial, the respondent/3rd party filed I.A.No.324 of 2018 under Order 1 Rule 10 of CPC., to implead herself as a necessary party to the suit proceedings and the same was allowed stating that the proposed party/third party is connected with the suit property and the



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respondent/third party has not produced any document to show that she is in possession and enjoyment of the suit property. After analyzing the records, the trial Court held that the petitioner/plaintiff filed the suit for declaration in respect of the suit property and the respondent/third party is claiming right over the property as per sub-division against the petitioner/plaintiff's possession, thereby the respondent/third party is also one of the necessary party to the suit proceedings. Furthermore, the respondent/third party claiming her share in the suit property comprised in S.Nos.298/1 and 298/2 and she is in possession and enjoyment of the suit properties, but the petitioner/plaintiff filed the suit in respect of only Survey No.298/2, as it absolutely belonged to the third party in the same survey number and the respondent/third party claims her share in the suit property to adjudicate the issue and hence, the proposed party, namely, Sivakamiammal, is also a necessary party to the suit proceedings. However, written statement was filed by the defendants claiming right over the suit property and issues were framed. The trial Court has rightly allowed the application, which is sustainable one. Therefore, there is no illegality or irregularity in the order passed by the trial Court and therefore, this revision is dismissed.



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7. Further, after impleading the proposed respondent/third party, namely, sivagamiammal in the suit proceedings, it is open to the proposed party/third party to file written statement within a period of four weeks. Furthermore, the trial Court is directed to dispose of the suit in O.S.No. 331 of 2009 on the file of Additional District Munsif (FAC), Tindivanam, within a period of three months thereafter, since the suit is of the year 2009.

8. Accordingly, the Civil Revision Petition is dismissed. No costs.

**19.10.2022**

msm

Index : Yes/No

Speaking Order : Yes/No

To

1. The Additional District Munsif (FAC), Tindivanam.
2. The Section Officer, V.R.Section

High Court, Madras.



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**T.V.THAMILSELVI, J.**

msm

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