



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.843 of 2017

and

C.M.P.No.4129 of 2017

- 1.Athiappa Gounder
- 2.Palaniammal
- 3.Balamurugan
- 4.Mukundkumar
- 5.Thangavel
- 6.Saraswathi

... Petitioners/1 to 6 Respondents/Plaintiffs

Vs

- 1.S.Thangavel

... 1st Respondent / Petitioner / 3rd Party

- 2.State Rep.by the District Collector
Namakkal.

- 3.Revenue Divisional Officer
Thiruchengodu,
Thiruchengodu Taluk,
Namakkal District.

- 4.The Tahsildar
Thiruchengodu,
Thiruchengodu Taluk,
Namakkal District.

- 5.Revenue Inspector

Molase,



Thiruchengodu Taluk,
Namakkal District,
Thiruchengodu.

6. Block Development Officer
Thiruchengodu,
Namakkal District.

7. Village Administrative Officer,
Patlur,
Thiruchengode Taluk,
Namakkal District.

8. The President,
Patlur Panchayat,
Patulur,
Thiruchengode Taluk,
Namakkal District.

...2 to 8 Respondents/ 7 to 13 Respondents/Defendants

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 30.03.2015 in I.A.No.314 of 2015 in O.S.No.227 of 2013 on the file of the Principal District Munsif, Thiruchengode.

For Petitioner	..	Mr.Pushparaj For E.P.Senniyanigiri
For R1	..	Mr.N.Premalatha For R.Nalliappan
For R2 to R5 & R7	..	Dr.S.Suriya, Additional Govt. Pleader
For R6 and R8	..	Mr.P.Harish

**ORDER****WEB COPY**

The plaintiffs in O.S.No.227 of 2013 now pending on the file of the Principal District Munsif Court, Thiruchengode are the revision petitioners herein. They are aggrieved by order dated 30.03.2015 passed in I.A.No.314 of 2015, which interlocutory application had been filed by the 1st respondent herein / third party to the suit under Order I Rule 10(2) CPC seeking to implead himself as party defendant to the suit. The said application was allowed by the learned Principal District Munsif, Thiruchengode necessitating, filing of the present Civil Revision Petition by the plaintiffs.

2.The suit in O.S.No.227 of 2013 surround a controversy with respect to a cart track which is admittedly available in S.Nos.203, 204/2, 204/1A1, 204/1G1, 204/1G7, 211/1A1 and 211/1C7 in Patlur village running from Kokkarayanpettai village Ramanathapuram upto P.Goundampalayam. It is the claim of the plaintiffs that the cart track aforementioned is meant for the exclusive use of the petitioners / plaintiffs and their family members. The 7th defendant in the suit, the President of Pattlur Panchayat however, appears to have passed an order directing that the said cart track can also be used by the general public. This necessitated



the petitioners herein to originally file W.P.No.20418 of 2013 before this Court and it is informed to me that a learned Single Judge had disposed of the writ petition, but had left an avenue open to the petitioners to workout their remedies in manner known to law.

3. Accordingly, the petitioners / plaintiffs filed the Civil Suit. While the suit was pending, IA.No.314 of 2015 came to be filed by the 1st respondent herein under Order I Rule 10 (2) CPC seeking to implead himself as a party defendant. It is claimed in the affidavit filed by him, that he had been using the cart track and therefore, it cannot be an exclusive cart track of the petitioners / plaintiffs. The learned Principal District Munsif, Thiruchengode, in the order under question in the present Civil Revision Petition, had held that he is a necessary party to decide the issues and therefore, had permitted impleading him as a party defendant and therefore, allowed the said Interlocutory Application.

4. Mr. Pushparaj, learned counsel for the petitioners assailed the order stating that the 1st respondent / 3rd party is not a necessary party to adjudicate the issues namely, whether the cart track has been used exclusively for the benefit of the family members of the petitioners or



could also be used by the general public. It is stated that this is an issue, which can be resolved only by the Government Officials and all of them have been added as party to the suit and they necessarily have to explain and come forward to indicate as to the nature of the cart track and for what purpose it was used and by whom it was used. It is therefore stated that the 1st respondent / petitioner / 3rd party is not a necessary party to the suit proceedings.

5.This statement is countered by the learned counsel for the 1st respondent / N.Premalatha, who pointed out the written statement filed by the defendants, wherein, it is stated that there is a cart track and it is used for public purpose.

6.Heard also Dr.S.Surya, learned counsel for R2 to R5 and R7 and Mr.P.Harish learned counsel who had also taken notice for R6 and R8.

7.The claims of the rival parties cannot go beyond the written statement which has already been filed in the suit. In paragraphs 7, 8 and 9 of the written statement, it had been stated as follows:

“7.This defendant submits that till date, the survey numbers 204/1A1, 204/1G1, 204/1G7, 211/1A1 and



211/IC7 of Pathur Village have not handed over as Village road and therefore, it is not belong to the panchayat road.

8. There is cart track exists in the Survey Nos. 203, 204/2, 204/1A1, 204/1G1, 204/1G7, 211/1A1 and 211/IC7 of Patlur village runs from Kokkarayanpettai Village Ramanathapuram upto P. Goundampalayam and public are using the same till date.

9. This defendant submits that if any necessary arise for the public use of cart track, this defendant will take necessary action for the same under due process of law.”

8. A specific stand will have to be taken only by the defendants who have already been arrayed in the suit, whether the cart track is permitted to use by the general public or whether it is used only for the benefit of the family members of the petitioners herein. That is only issue which has to be decided in the suit. Inclusion of third parties in the suit would only widen the scope and lead to escalation of private disputes, which probably the 1st respondent herein has, against the petitioners. That cannot be permitted.



9.The scope of the suit and the issue to be decided in the suit is whether there is cart track available in the said survey numbers and whether such cart track can be used exclusively by the family members of the petitioners herein or whether the cart track can be used by the general public.

10.This is an issue, which the defendants already arrayed as parties to the suit can agitate before the Court and come forward to explain to the Court. I do not agree with the contentions of the Principal District Munsif, Thiruchengode, that the 1st respondent is a necessary party to the proceedings. Necessary parties have already been impleaded as defendants. They have filed their written statement. Therefore, I would interfere with the order passed by the learned Principal District Munsif, Thiruchengode and set aside the order dated 30.03.2015 in I.A.No.314 of 2015 in O.S.No.227 of 2013.

11.A perusal of the record shows that the suit is of the year 2013. A direction is issued to the learned Principal District Munsif, Thiruchengode, to proceed further with the trial in O.S.No.227 of 2013. No further pleadings are required. Issues are to be framed and trial has to be



commenced and trial is to be completed and judgment has to be passed on
or before 30.06.2022.

12. With the above observations, the present Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.02.2022

Internet: Yes/No

Index: Yes/No

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To

The Principal District Munsif Court, Thiruchengode.



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C.V.KARTHIKEYAN, J.

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