



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (MD)No.60 of 2022

and

C.M.P. (MD)No.289 of 2022

Thiraviam Chettiar

... Petitioner/ 1st Respondent/
Plaintiff

-VS-

1.Marakathavalli
2.Arumuganainar
3.Ragu
4.Murugesan
5.Ganesan
6.Rani
7.Veni
8.Manj
9.Subramanian

... 1 to 9 Respondents/Petitioners/
Proposed 3 to 11 Defendants

10.Banumathi
11.Alagayya

... 10 to 11 Respondents/
2 to 3 Respondents/ Defendants

Prayer :- Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.09.2021 passed in I.A.No.1 of 2021 in O.S.No.356 of 2010 on the file of the Principal District Munsif, Valliyoor, by allowing this civil revision petition.

For Petitioner

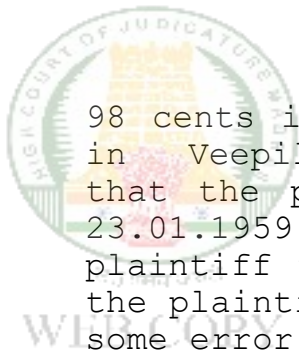
: Mr.D.Nallathambi

ORDER

This civil revision petition is filed by the plaintiff challenging the order passed in IA No.1 of 2021 in O.S.No.356 of 2010 by the learned Principal District Munsif, Vallioor, impleading the respondents 1 to 9 herein as proposed defendants 3 to 11 in the suit .

2.The facts in brief are as follows:-

(i) The revision petitioner has filed the above suit against the respondents 10 and 11 herein for a declaration and recovery of possession. The suit has been filed with reference to an extent of

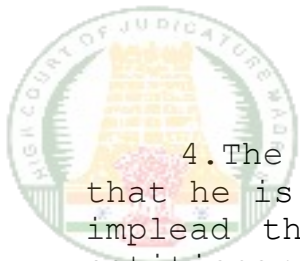


98 cents in survey No.198/A1 (0.35 cents) and 198/B1 (0.63 cents) in Veepilangulam Village, Valioor. The plaintiff would contend that the property belongs to one Subbanaidu by a partition dated 23.01.1959. The said Subbanaidu had sold the suit property to the plaintiff under the sale deed dated 21.11.1981 and from that date, the plaintiff is in possession and enjoyment of the same. There was some error in the document with reference to the eastern and western boundaries. However, no steps have been taken to rectify the same and the plaintiff had come to know about the error only on 14.11.2010. The plaintiff would submit that they are living away from the suit property and that they would periodically visit the suit schedule property and remove the broken tree thereon. On 14.11.2010, when the plaintiff had visited the suit schedule property, he found that the same has been encroached by the defendants 1 and 2 . On 17.11.2010, the plaintiff had, in person, requested the defendants to vacate and hand over the vacant possession of the suit property, which was refused. Consequently, the suit.

(ii) The case of the defendants is that the partition dated 23.01.1959 said to have been entered into between the Subbanaidu and his brother, was wrong and the partition was between Subbanaidu and the son of his brother one Manthiram. The property allotted to the said Manthiram in this partition, was sold to one Arumugam Chettiar, under a registered sale deed, dated 07.012.1966. Arumugam Chettiar had been enjoying the property and on his demise, his legal representatives, namely, his wife and daughter were enjoying the suit property. Thereafter, on 01.06.2009, the partition took place between the legal representatives of the said Arumugam Chettiar and in that partition, the property was allotted to various sharers. The first defendant had purchased the property under a registered sale deed, dated 02.07.2009. The defendants had, therefore, denied the title of the plaintiff.

(iii) The first defendant would submit that the suit filed by the plaintiff was without any cause of action and without the plaintiff having a right to the said property. Since the suit had been filed with reference to the properties in which they had a right, the proposed parties had filed an application for impleading themselves narrating the fact that there are proceedings already pending between the plaintiff and the proposed parties in O.S.No.80 of 2016 and O.S.No.37 of 2012. Therefore, the proposed parties would seek to be impleaded in the present proceedings. The said application has been allowed. Challenging the same, the revision petitioner /plaintiff is before this Court.

3.When the matter had come up on 21.1.2022, this Court had directed the petitioner to produce the copy of the plaint in O.S.No. 37 of 2012 on the file of the District Munsif Court, Valliyoor and O.S.No.80 of 2016 on the file of the Additional District Munsif Court, Valliyoor, which documents had now been produced.



4.The learned counsel for the revision petitioner would submit that he is the *dominus-litis* and the proposed parties cannot seek to implead themselves in the proceedings, which is only between the petitioner and the respondents 10 and 11 herein. He would submit that the learned Judge had totally over-stepped his jurisdiction by impleading the proposed parties.

5.Heard the learned counsel appearing for the petitioner and perused the records and also the additional documents filed by the revision petitioner.

6.A perusal of the complaints in the two suits in O.S No.37 of 2012 and 80 of 2016 would indicate that the proceedings are between the revision petitioner/plaintiff and the proposed parties herein. The subject matter of the instant suit is also related to the subject matter of the other two suits. Therefore, considering the above, the presence of the proposed parties is necessary for proceeding with the instant suit, particularly, when the plaintiff has sought for a declaration and recovery of possession. I do not, therefore, find any infirmity in the order passed by the learned Principal District Munsif, Valliyoor. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

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

The Principal District Munsif,
Valliyoor.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-2540[F] dated 27/01/2022)

C.R.P.(MD)No.60 of 2022 and

C.M.P.(MD)No.289 of 2022

Dated: 31.01.2022

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