



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM

THE HON'BLE MRS.JUSTICE S.ANANTHI

C.R.P (MD)No.586 of 2022

and

C.M.P (MD)No.2473 of 2022

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P.Chelladurai
Through Power Agent
P.Bhuvaneswari

... Petitioner/Petitioner/Plaintiff

Vs.

1.S.Chithra

...1st Respondent/Respondent/
Defendant

2.Kaliammal

...2nd Respondent/
Proposed 2nd Respondent/ Third Party

PRAYER: Civil Revision Petition filed under Article 227 of The Constitution of India, to call for the records relating to the fair and decreetal order dated 17.11.2021 passed in I.A. No. 02 of 2021 in O.S.No.114 of 2016, on the file of the District Munsif, Devakottai.

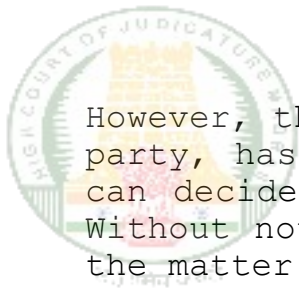
For Petitioner : Mr.V.R.Shanmuganathan

ORDER

The Civil Revision Petition has been filed to set aside the fair and decreetal order dated 17.11.2021 passed in I.A. No. 02 of 2021 in O.S.No.114 of 2016, on the file of the District Munsif, Devakottai.

2.I.A.No.02 of 2021 was filed by the revision petitioner/plaintiff under Order 1 Rule 10 and Section 151 of CPC., to implead the 2nd proposed respondent as party in the suit, which was dismissed by the learned District Munsif, Devakottai. Aggrieved by the said order, the revision petitioner has filed this Civil Revision Petition.

3.A perusal of records would show that the revision petitioner/plaintiff has filed a suit in O.S.No.114 of 2016 for mandatory injunction to remove the encroachments put up by the first respondent/defendant. It is found from the Advocate Commissioner's report that on the east-west direction approximately 2.6 metres and on the south-north direction approximately 22.8 metres were encroached by the 2nd proposed respondent and therefore, the proposed party is necessary and has to be impleaded as a party to the suit.



However, the trial Court, without issuing any notice to the proposed party, has dismissed the said I.A.No.02 of 2021. The trial Court can decide the matter only after appearance of the proposed party. Without notice to the proposed party, the trial Court cannot decide the matter.

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4. In view of the above, the Civil Revision Petition is allowed and the order dated 17.11.2021 made in I.A.No.02 of 2021 in O.S.No.114 of 2016, passed by the file of the learned District Munsif, Devakottai, is hereby set aside and the matter is remitted back to the District Munsif Court, Devakottai. The learned District Munsiff, Devakottai, is directed to issue notice to the proposed parties and then, decide the matter on merits. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

To

The District Munsif,
Devakottai.

+1 CC to M/s.VR.SHANMUGANATHAN, Advocate (SR-14609[F] dated 25/03/2022)

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C.M.P(MD)No.2473 of 2022
24.03.2022

RD(19.04.2022) 2P 3C