



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2022

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD) .No.553 of 2017

and

CMP (MD) .No.2530 of 2017

Pulavar Kanthasamipillai Ninaivu Vellala
Perumakkal Sankam, Kompai
represented through its Secretary
Kalyanasundaram ...Petitioner/Plaintiff

Vs

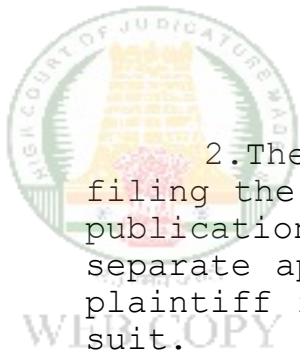
1.P.Saravanan
2.K.P.T.Kumaresan
3.M.Mani@Manimaran
4.M.Andavar
5.Muthalagu
6.P.Selvam
7.K.Vivekamuthupillai
8.T.V.S.Surulinathan
9.A.Krishnan
10.S.Subbaiah Pillai ...Respondents/Defendants

PRAYER: Civil Revision Case is filed under Article 227 of Constitution of India against the docket order dated 20.09.2016 made in O.S.No.85 of 2016 on the file of the District Munsif Court, Uthamapalayam.

For Petitioner : Mr.A.Arumugam
For M/s.Ajmal Associates
For R1, R2, R4 to
R7, R9 & R10 : Mr.D.Nallathambi

O R D E R

The plaintiff filed the suit in a representative capacity and made a paper publication, in which, several parties have raised their objections with regard to the plaintiff's right to sue in the representative capacity. The trial Court directed the plaintiff to implead the objectors as respondents. Challenging the said order, the present revision petition has been filed by the petitioner/plaintiff.



2.The learned counsel for the petitioner would submit that by filing the suit in a representative capacity, he has made the paper publication. If anybody raised their objections, they have to file a separate application to implead them in the suit and therefore, the plaintiff need not implead all the objectors as respondents in the suit.

3.The learned counsel for the respondents would submit that the plaintiff filed suit under Order 1 Rule 8 C.P.C, in which, they raised their objections that in the representative capacity, the public are entitled to make any objections. It is for the Court to consider the objection and decide the maintainability of the suit filed in the representative capacity. Hence, the trial Court rightly ordered to implead the objectors as parties to the suit and there is no perversity in the order passed by the trial Court.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.Admittedly, the plaintiff filed the suit in a representative capacity and so far, 10 persons are the defendants. In order to comply Order 1 Rule 8 C.P.C, they made paper publication after plaint was taken on file as directed by the Court. On seeing publication, there are 48 persons have made their objections. The trial Court without directing them to file an application separately, directed the plaintiff to implead them as parties to the suit. Therefore, the order passed by the trial Court is set aside. The trial Court shall direct the objectors to file separate applications to implead them as parties to the suit. If the objectors filed any separate application to implead them as parties to the suit, the trial Court shall consider their objections and decide the matter on merits whether the plaintiff is entitled to file a suit in a representative capacity and proceed further in accordance with law.

6.With the above observation, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

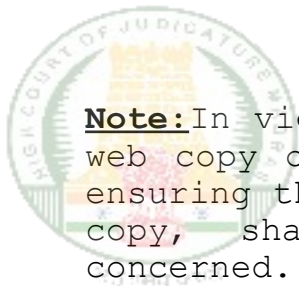
Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

msa



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.

WEB COPY

To

1.The District Munsif,
Uthamapalayam.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-1775[F] dated
19/01/2022)

C.R.P. (MD) .No.553 of 2017 and
CMP (MD) .No.2530 of 2017
12.01.2022

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