



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2023

CORAM

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.806 of 2018
and
C.M.P.No.4456 of 2018

Thulasi @ Pankajam

...Petitioner

Vs.

1.Dhanalakshmi Ammal @ Kutti Ammal
2.Devarajan
3.M/s Jayanthi Cinema Talkies
4.Mrs.Lalitha Ramunujam
5.Mrs.Jayanthi
6.The District Collector,
Kanchipuram District,
Kanchipuram.

...Respondents

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decreetal order passed on 27.06.2017 by the Learned Additional District Munsif Court at Alandur, in I.A.No.339 of 2016 in O.S.No.170 of 2005.

For Petitioner	:	Mr.Shankara Subbu
	:	for Mr.M.Baskar
For Respondents	:	
For R2	:	Mr.C.P.Hemkumar
	:	for M/s.Ganesh and Ganesh
For R3 to R5	:	Mr.M.Ananda Kumar
For R6	:	Mr.B.Tamil Nidhi
	:	(Additional Government Pleader)

**ORDER**

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This civil revision petition arise against an order rejecting an application to implead the plaintiff/the Civil Revision Petitioner as a party in an ejectment suit.

2.O.S.No.170 of 2005 was filed by one Dhanalakshmi Ammal @ Kutti Ammal and one Devarajan against M/s. Jayanthi Cinema Talkies, Mrs.Lalitha Ramunujam, Mrs.Jayanthi and the District Collector, Kanchipuram District. This suit has been pending for the past 18 years. In 2014, the plaintiff/the Civil Revision Petitioner claiming her right as a co-owner, filed for partition in O.S.No.231 of 2014. After having filed the suit, soon thereafter, she filed an impleading application in I.A.No.339 of 2016 in O.S.No.170 of 2005. The Claim of the plaintiff/the Civil Revision Petitioner is that, she is the co-owner of the property and therefore, she is entitled to be added as a party-defendant to the said suit.

3.The said application was dismissed by the Learned Additional District Munsif Court at Alandur on the ground that the plaintiff/the Civil



Revision Petitioner is a *dominus litis* and cannot be asked to file a litigation against a person who he or she does not want to add as a party.

4.It is a settled law that one co-owner can file a suit against a tenant without the presence of the other co-owner. This is because the ejectment of a tenant at the instance of one co-owner enures in favour of all the co-owners. The plaintiff/the Civil Revision Petitioner's claim that, she is a co-owner, was made only in the year of 2014, whereas, the ejectment suit was filed in the year of 2005, on the strength of the compromise entered into between the parties in A.S.No.602 of 1996 before this Court. In an ejectment suit, a third party has no role. The necessary parties are the landlord and the tenant respectively.

5.Mr.Shankara Subbu, learned Counsel for the plaintiff/the Civil Revision Petitioner in C.R.P.No.806 of 2018 states that pending the proceeding for ejectment, the tenant has moved an application under Section 9 of The Chennai City Tenants Protection Act, 1921. Though he has not pleaded the case today across the bar, he states that there is a possibility that



the landlord and the tenant will collude to prejudice his client's rights.

6. It is always open to the other co-owner to file a suit for ejectment, if he is so advised, against the same tenant. Apart from that, an order under Section 9 of aforesaid Act, is a decree and if any adverse orders are passed and if the plaintiff/landlord does not file an appeal, it is always open to the plaintiff/the Civil Revision Petitioner to prefer an appeal after getting leave of the Court. On a supposed fear that there will be a collusion inside the Court, he cannot be made a party to the proceeding of the ejectment suit. As already premised, the suit of ejectment is only between the landlord and the tenant and the other co-owner, at best would be a necessary party but not a proper party. By adding the plaintiff/the Civil Revision Petitioner, the litigation will only be delayed further. The plaintiff/the Civil Revision Petitioner knew about the pendency of the suit, at least 9 years before she filed the present suit for partition and 12 years before she filed the impleading application. Still no steps were taken. Therefore, I am not willing to implead the plaintiff/the Civil Revision Petitioner as a party to the proceeding at this stage.



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7. The suit is pending from the year 2005. The Learned Additional District Munsif Court is requested to give priority to the said suit and dispose of the same at the earliest within a period of 9 months from the date of receipt of a copy of the order.

8. In view of the above, liberty is granted to file a suit for ejectment. The Civil Revision Petition is dismissed. No Costs. Connected Miscellaneous Petitions is closed.

20.07.2023

nst

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

To:

1. Additional District Munsif Court,
Alandur.

2. The District Collector,
Kanchipuram District,
Kanchipuram.

V. LAKSHMINARAYANAN.J.,



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