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C.R.P.No.3078 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3078 of 2023

and

C.M.P.No.19053 of 2023

Kasilingam

... Petitioner

-Vs-

- 1.Periyasamy
- 2.Vasanth
- 3.Kolanchi
- 4.Veerammal
- 5.Pattu
- 6.Karunanithi
- 7.Kazhagamani
- 8.Kayalvizhi
- 9.Minor Sivaseenu
- 10.Chitra

- 11.The Village Administrative Officer
Neelamangalam VAO's Office
Kallakurichi Taluk, Kallakurichi District.

- 12.The Revenue Inspector
O/o The Revenue Inspector
Kachirapalayam Road, Kallakurichi Taluk
Kallakurichi District.



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- 13.The Revenue Tahsildar
O/o Tahsildar, Kallakurichi Taluk
Kallakurichi District.
- 14.The Revenue Divisional Officer
O/o Revenue Divisional Office
Kachirapalayam Road, Kallakurichi Taluk
Kallakurichi District.
- 15.The District Revenue Officer
Collector Office Compound
Kachirapalayam Road, Kallakurichi Taluk
Kallakurichi District.
- 16.The District Collector, Collectorate
Kallakurichi District, Kallakurichi.
- 17.The Sub Registrar No.2
O/o Joint Registrar No.2
Kachery Street, Kallakurichi
Kallakurichi Taluk, Kallakurichi District.
- 18.The District Registrar
Kallakurichi District
Kallakurichi.

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 12.07.2023 made in I.A. No.305 of 2022 in O.S. No.51 of 2022 on the file of the learned Third Additional District Court, Kallakurichi by allowing this Civil Revision Petition.

For Petitioner : Ms.M.Adhishree
For Respondents : Mr.R.Bharath Kumar



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ORDER

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Challenging the impugned order passed in I.A.No.305 of 2022 in O.S.No.51 of 2022 passed by the learned Addl. District Judge, Kallakurichi, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

2. Before the trial court, the Revision Petitioner/plaintiff filed an application to implead proposed parties as defendants 2 to 18 in the suit by invoking Order 1 Rule 10(2) of C.P.C. for the reason that on verification, he came to know that there was a Release deed and the same was registered vide document No.1359 of 2022. Thereafter, the patta was also transferred from the name of 1st defendant to 5th defendant by the revenue officials. Therefore, the family members of 1st defendant and the revenue officials are to be added as proposed parties/defendants 2 to 18. Hence, he prayed to implead those proposed parties as necessary parties to the proceedings. That application was disputed by the 1st defendant stating that to drag on the proceedings, the said application was filed by the plaintiff, as such is not permissible and moreover, the parties are not necessary parties to the proceedings, since because the proposed individual parties have not executed any release deed in his favour. So,



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they are not necessary parties to the proceedings. Considering both side submissions, the trial judge dismissed the application holding that in order to harass other proposed parties, that application was filed, besides, already a release deed was executed in favour of 1st defendant. Therefore, they are not necessary parties and dismissed the application. Challenging the said findings, the plaintiff preferred this Civil Revision Petition.

3. The learned counsel for Revision Petitioner would submit that based on the said release deed, now the revenue officials transferred the patta without giving opportunity of hearing the plaintiff, thereby his right was affected. Hence, to adjudicate the said issue, they are necessary parties. By way of reply, the learned counsel for respondents would submit that prior to the suit, the Patta transfer was made and before the revenue officials, even the plaintiff also appeared.

4. Admittedly, the suit was filed in the year of 2022 for the relief of declaration and other consequential relief. Therefore, the impleading of proposed parties would not cause any prejudice to the defendants, since because trial is not yet begin. So, to avoid further complications, the parties are ordered to be added, as the plaintiff has not accepted the release deed made by the proposed parties. But, the trial judge failed to take note



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of the fact and dismissed the application, as such is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.305 of 2022 in O.S.No.51 of 2022 is set aside and the said application is ordered to be allowed. Both the parties are directed to cooperate with the trial proceedings. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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To

The III Additional District Judge, Kallakurichi.



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T.V.THAMILSELVI, J.

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