



C.R.P.No.3373 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE T.V.THAMILSELVI

C.R.P.No.3373 of 2022
and
C.M.P.No.17938 of 2022

Radhammal

.. Petitioner

Vs

1. Venkatesan
2. Murugesan

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order and decreetal order passed in I.A.No.176 of 2021 in O.S.No.57 of 2017 dated 14.09.2022, on the file of District Munsiff cum Judicial Magistrate Court, Uthukottai, Tiruvallur District.

For Petitioner : Mr. M.L. Ramesh

For Respondents : Mr. S. Ravichandran



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ORDER

This Civil Revision Petition has been filed challenging the impugned order passed in I.A.No.176 of 2021 in O.S.No.57 of 2017 dated 14.09.2022 on the file of District Munsiff cum Judicial Magistrate Court, Uthukottai, the plaintiff has preferred the revision.

2. Before the trial Court, the plaintiff filed a suit in O.S.No.57 of 2017 for relief of permanent injunction against the first defendant. Now, the plaintiff filed application to implead the son as second defendant in the suit stating that during the pendency of the suit he caused interference. Therefore, necessity arose to implead him as second defendant. The said application was objected stating that the family member of the first defendant is not a necessary party to the proceeding. Furthermore, he has not caused any interference just because he is working at Chennai and prayed to dismiss the application as unnecessary one.

3. On considering both submissions, the trial Judge dismissed



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the said application stating that in the year 2017, the suit was filed against the defendant. In the year 2019 the son of the defendant caused interference.

Hence, she wants to implead him as necessary party. As such is not acceptable for the reason that the plaintiff by impleading him, he attempted to amend the prayer for declaration as such is not permissible.

4. Challenging the said finding, the petitioner has preferred this revision.

5. Learned counsel for the revision petitioner submitted that during the pendency of the suit, in the year 2019, the son of the defendant caused interference. Hence, necessity arose to implead him as party to the proceedings.

6. Admittedly, she filed suit in the year 2017, if opportunity is not given to implead the second defendant, the cause of action to file a suit will be defeated. By impleading the son of the first defendant would not cause any prejudice to the first defendant. However, liberty is granted to the



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impleading person to take defence before the trial Court.

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7. Accordingly, the Civil Revision Petition is allowed. The order passed in I.A.No.176 of 2021 in O.S.No.57 of 2017 dated 14.09.2022 on the file of District Munsiff cum Judicial Magistrate Court, Uthukottai, Tiruvallur District is set aside. Consequently, connected miscellaneous petition is closed. No costs.

18.10.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The District Munsiff cum Judicial Magistrate Court,
Uthukottai, Tiruvallur District.



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T.V.THAMILSELVI, J.

AT

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