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C.R.P.(PD)No.3874 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.3874 of 2019
and CMP.No.25579 of 2019

K.Santhosh Kumaran

.. Petitioner

VS

1.K.Rangasamy
2.R.Thulasi Mani

.. Respondents

Petition filed under Article 227 of the Constitution of India against the fair and decretal orders dated 14.10.2019 in I.A.No.1070 of 2018 in O.S.No.276 of 2016 on the file of the I Additional District Munsif's Court, Coimbatore, in so far as the same is against the petitioner.

For Petitioner : Mr.J.Maheswaran

For Respondents : No Appearance (for R1 & R2)

ORDER

This revision arises against an order passed in I.A.No.1069 of 2018 in O.S.No.276 of 2016 on the file of the I Additional District Munsif Court at Coimbatore. O.S.No.276 of 2016 is the suit filed for



C.R.P.(PD)No.3874 of 2019

WEB COURT
bare injunction restraining defendants 1 and 2 from in any way interfering with the peaceful possession and enjoyment of the 'A' schedule mentioned property and the right of the plaintiffs, which is a pathway declared as public pathway in the 'B' schedule property.

2.The defendant Mr.V.M.Kalisamy filed a written statement. In paragraph 6 of the statement he had stated that even before the presentation of the suit, as early as on 26.06.2007, he had settled the property in favour of his wife and the civil revision petitioner. In other words, even on the date of presentation of plaint, the person, who was interested in the property was not the said Kalisamy, but the civil revision petitioner.

3.The civil revision petitioner filed an application to implead himself as a party to the suit on the ground that being a public pathway, as a user, he is also interested in the same. The said application came to be dismissed on the ground that the plaintiff is *dominus litis* and therefore he need not be impleaded. The principle of *dominus litis* is very well settled. It is for the plaintiff to choose a person against whom he wants to file the case. However, an exemption to the rule is where the decree will affect the rights of the other parties who are not before the Court.



C.R.P.(PD)No.3874 of 2019

4.The claim, being for a public pathway, and the civil revision petitioner having secured a right over the property, even before the presentation of the plaint, I feel he is a proper and necessary party to the proceeding. Consequently, the order passed in I.A.No.1069 of 2018 in O.S.No.276 of 2016 dated 02.04.2019 is set aside. The civil revision petition is allowed.

5.The application filed in I.A.No.1070 of 2018 is allowed. The civil revision petitioner is impleaded as a party defendant to the suit. Since the application in I.A.No.1069 of 2018 has already been allowed, he will be represented by his power of attorney agent Mr.V.M.Kalisamy. No costs. Consequently, connected miscellaneous petition is closed.

17.07.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs

To

The I Additional District Munsif Court,
Coimbatore,



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V. LAKSHMINARAYANAN,J.

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