



W.A.(MD) No.301 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A.(MD) No.301 of 2023
and
C.M.P.(MD)No.3401 of 2023**

T.Kalimuthu

... Appellant/Petitioner/3rd Party

-VS-

1.K.Arasi Olina

... Respondent/1st Respondent/Petitioner

2.The Secretary to Government,
PWD Department,
St. George Fort,
Chennai.

[R1 in the Writ Petition is deleted vide order dated
17.10.2022 in W.M.P.(MD)No.2974 of 2017
in W.P.(MD)No.3793 of 2015]

3.The District Collector,
Office of the District Collector,
Ramnad.



W.A.(MD) No.301 of 2023

4.The Revenue Divisional Officer,
Paramakudi,
Ramanad District.

5.The Thasildar,
Paramakudi Taluk, Ramnad District.

6.The Secretary to Government,
School Education Department,
Secretariat, Chennai.

[R5 in the writ petition is impleaded vide order dated 27.01.2023
in W.M.P.(MD)No.1438 of 2023 in W.P.(MD)No.3793 of 2015]

... Respondents 2 to 6/Respondents 2 to 6/Respondents

PRAYER: Writ Appeal has been filed under Clause 15 of Letters Patent
to set aside the order, dated 01.03.2022 made in W.M.P.(MD)No.3962 of
2023 in W.P.(MD)No.3793 of 2015 on the file of this Court.

For Appellant : Mr.D.Senthil

For R1 : Mrs.Porkodi Karnan
for Folax Legal Solution

For R2 : Dispensed with

For R3 to R6 : Mr.D.Sadiq Raja
Additional Government Pleader



W.A.(MD) No.301 of 2023

WEB COPY

J U D G M E N T

[Order of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]

This Writ Appeal is directed against the order of the learned Single Judge, dated 01.03.2023 made in W.M.P.(MD)No.3962 of 2023 in W.P. (MD)No.3793 of 2015, in and by which, the application filed by the appellant for impleading himself as respondent No.6 in the writ petition was dismissed. The writ petition is filed by the first respondent herein for a Mandamus directing the respondents 1 to 3 to fix the compensation for the petitioner's land under forcible possession of the respondents in S.No.164/6A1 by affording opportunity to the petitioner as per the procedures established by law and pay the same.

2. According to the appellant, he is the Vice President of the School Committee and he is authorised to implead himself as a party on behalf of the school management. He would submit that as early as on 10.04.2003 by including the writ petitioner as well as the appellant, a survey was conducted by the Tahsildar, Paramakudi and it was decided



W.A.(MD) No.301 of 2023

WEB COPY

that the land in question belongs to the Government and patta should be altered from the name of the first respondent/writ petitioner to the name of the school. Since the writ petitioner now claims compensation for the land in the occupation of the school, the appellant states that he is a necessary and proper party and as such should be impleaded. The learned Single Judge considered the case of the appellant and taking into consideration that subsequently, the said decision for mutation of names in revenue records has been rescinded and the Tahsildar has ordered to issue patta in the year 2014 to the writ petitioner, dismissed the impleading petition.

3. The learned counsel for the appellant would submit that when the impleading petition is considered by the learned Single Judge, the only question which ought to have been addressed is whether or not the petitioner is a proper and necessary party. He would submit that he wanted to implead in the writ petition as a respondent as he is in a position to place several facts before the learned Single Judge which would enable a broader and correct appreciation of the issues in question. This apart any decision to hold that the school is in



W.A.(MD) No.301 of 2023

WEB COPY

encroachment of the first respondent's land would directly have a bearing on the school management and as such they ought to have been impleaded as a necessary and proper party to the writ petition.

4. Per contra, Mrs.Porkodi Karnan, learned counsel appearing on behalf the first respondent/writ petitioner by taking this Court through the developments which happened over the years would submit that the writ petition is of the year 2015. Originally by order dated 19.10.2022, this Court has already ordered a survey to be conducted and report to be filed before the Court on or before 21.11.2022. Pursuant to that a survey was conducted and it is stated that the first respondent/writ petitioner's claim was found to be correct. Thereafter, once again yet another order was passed on 13.02.2023 and the Writ Court had concluded that the action of the respondents was violative under Article 300-A of the Constitution of India and directed the authorities to fix the value of the land in respect of hectares 0.16.02 as per G.O.Ms.No.411, dated 06.08.2020 and to file a report by 24.02.2023. It is stted that at this stage, belatedly, knowing fully well that the compensation is going to be paid to the first respondent/writ petitioner, this impleading



W.A.(MD) No.301 of 2023

petition is moved. Stating that all the contentions in the impleading petition has been considered on merits by the learned Single Judge, she would pray that the appeal is liable to be dismissed.

5. We have considered the rival submissions made on either side and perused the material records of the case.

6. From the arguments made on either side which is extracted above by itself it can be understood that the appellant is not a stranger or a third party and the presence of appellant is very much relevant having regard to the nature of dispute. After all he wanted to place certain facts before the learned Single Judge in respect of the claim of the first respondent/writ petitioner. Merely because interim directions have already been given, that does not mean that at the time of final hearing of the matter, the learned Single Judge cannot consider the facts, which may be brought to the notice by the appellant who seeks to implead himself as the respondent.



W.A.(MD) No.301 of 2023

WEB COPY

7. When the appellant has shown that the school committee is a proper party, having a rival claim and the school will have something to say about the claim in the writ petition then all efforts should be made only to allow all interested parties for an effective and complete adjudication of the *lis* before the Court. In that view of the matter, we are unable to agree with the learned Single Judge in going into the merits of the matter while dealing with the impleading petition itself. Once there is necessity to go into the claim made by the impleading petitioner, then that by itself would be sufficient to allow the impleading petition; Any party who is likely to be affected by the final order is a necessary party and his application cannot be dismissed unless the person is precluded from making a claim by virtue of a binding decision of Court having reached finality.

8. In the result,

(i) The Writ Appeal is allowed;

(ii) The order dated 01.03.2023 in W.M.P.(MD)No.3962 of 2023 in W.P(MD)No.3793 of 2015 is set aside;



W.A.(MD) No.301 of 2023

WEB COPY

(iii) The appellant, T.Kalimuthu, is impleaded as sixth respondent in W.P.(MD)No.3793 of 2015;

(iv) It is seen that the writ petition is of the year 2015 and therefore, the sixth respondent shall file counter and documents within a period of one week from the date of receipt of a copy of this order and co-operate for the final hearing of the writ petition.

(v) However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

03.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sjj

To:

- 1.The District Collector,
Office of the District Collector,
Ramnad.
- 2.The Revenue Divisional Officer,
Paramakudi,
Ramanad District.



W.A.(MD) No.301 of 2023

WEB COPY

- 3.The Thasildar,
Paramakudi Taluk, Ramnad District.
- 4.The Secretary to Government,
School Education Department,
Secretariat, Chennai.



WEB COPY



W.A.(MD) No.301 of 2023

S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

sjj

W.A.(MD) No.301 of 2023
and
C.M.P.(MD)No.3401 of 2023

03.08.2023