



C.R.P(MD)No.1494 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2023

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1494 of 2021

and

C.M.P(MD)No.8261 of 2021

Kesavan

... Petitioner/
Proposed 2nd Plaintiff

Vs.

1.Andi

2.Boovan

3.Subramanian

4.Muththayee

... Respondents/Defendants

5.Prema

...5th Respondent/1st Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in I.A.No.35 of 2019 in O.S.No.131 of 2014 dated 29.11.2019 on the file of the Principal Subordinate Judge, Pudukkottai.

For Petitioner : Mr.N.Balakrishnan

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order in I.A.No.35 of 2019 in O.S.No.131 of 2014, dated



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29.11.2019 on the file of the learned Principal Subordinate Judge,
Pudukkottai.

2. The petitioner is aggrieved by the impugned order passed by the Principal Sub Court, Pudukkottai on 29.11.2019 in I.A.No.35 of 2019 filed by the petitioner under Order 1 Rule 10 (2) of C.P.C to implead himself as the second plaintiff. The fifth respondent herein had filed the above suit before the Sub Court, Pudukkottai for declaration and injunction of A Schedule property and for recovery of possession of B Schedule property.

3. During the cross examination of the fifth respondent, the respondent had attempted to sell the A schedule property to the petitioner on 21.03.2018. Under these circumstances, the petitioner, the purchaser of the suit schedule A property filed I.No.35 of 2019 to implead himself as the second plaintiff, which has been now rejected by the learned Principal Subordinate Judge, Pudukkottai with the following observations:

4. Heard both, the petitioner submitted that he has to be impleaded as second plaintiff in the suit. The plaintiff's mother purchased the A schedule property via sale deed 11.07.1947. On 22.09.2008 the plaintiff's mother executed registered will



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in favour of plaintiff regards A schedule property and also executed settlement deed for plaintiff on 21.01.2010. This petitioner purchased the said property from the plaintiff on 21.03.2018. Hence, this petitioner prayed this Court to implead as his 2nd plaintiff in the suit to utter the details about the A schedule property. The respondents contended in their counter that the plaintiff is still continuing this suit, hence the petitioner cannot impleaded himself as 2nd plaintiff in the suit filed by original plaintiff under cause of action alleged by herself.

5.This Court perused the petition and counter. The petitioner has not properly stated in his petition whether with the knowledge and permission also with willingness of original plaintiff this petition is filed by him. In the cause title of this petition the original petitioner status is not properly stated. This Court cannot comes to know about the willingness of the plaintiff in the suit. The plaintiff stated different cause of action in the suit so, this petitioner cannot bring any new story in to the plaint.

6. Also the petitioner has not filed any document to prove his submission. This petitioner cannot steps into shoes of the original plaintiff. This petition has no locus standi to file this petition.

7. In the result petition is dismissed.

4. In support of the plea, the learned counsel for the Petitioner has placed reliance on the following two cases:

1.G.Santhana Krishnan Vs Basheera Kathu and others reported in 2019 (1) MWN (Civil) 320.

2.K.Devanand and others Vs Periasamy and others reported in 2021 (3) CTC 843.



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5. Both the decisions placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Thomson Press (India) Limited Vs. Nanak Builders and Investors Private Limited and others*** reported in ***2013 (2) CTC (SC)***. This view was also followed by the Division Bench of this Court in the case of ***Devaki Thiyagarajan Vs Ahamed*** reported in ***2015 (4) CTC 293***.

6. The learned counsel for the respondents, on the other hand, submits that the respondents had withdrawn the vakalat and therefore, the name may be deleted. However, no memo has been filed. It is incumbent on the part of the respondents to engage a counsel and ensure that the vakalat of the respondent was there in file.

7. I have considered the arguments advanced by the learned counsel for the petitioner.

8. In my view, there is no merit in the impugned order passed by the learned learned Principal Subordinate Judge, Pudukkottai in rejecting the application filed under Order 1 Rule 10 (2) of C.P.C., for impleading the petitioner as the second plaintiff.



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9. In view of the above, the impugned order is set aside. The fifth respondent is directed to ensure the clean copy of the plaint and corrections are made in the plaint. The learned Principal Subordinate Judge, Pudukkottai shall thereafter proceed with the trial and frame any additional issues, if required before proceeding further. Since the suit is of the year 2014, the learned Principal Subordinate Judge, Pudukkottai shall endeavour to bring closure to the dispute one way or the other on merits and in accordance with law as expeditiously as possible preferably within a period of 12 months from the date of receipt of copy of this order.

10. The present Civil Revision Petition stands allowed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

27.04.2023

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

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To

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1. The learned Principal Subordinate Judge,
Pudukkottai.
2. The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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