



C.R.P.(MD).No.1289 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 30.11.2023

Delivered on: 08.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.(MD)No.1289 of 2018

and

C.M.P.(MD)No.5443 of 2018

1.Periyasamy

2.Kaliammal

3.Rajammal

4.Murugesan

5.Vellaiyammal

6.Boopathy

... Revision Petitioners / Petitioners / Plaintiffs

Vs.

1.Kaliammal

2.Priya

3.Nachiappan

4.Ilangovan

5.Dhanapal

6.Shanmugam

7.Selvi

8.Mathi

9.Anjalidevi

10.Karthika

... Respondents / Respondents/ Defendants



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Prayer:-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the orders passed in I.A.No.927 of 2016, in O.S.No.14 of 2015, on the file of District Munsif, Devakoattai, dated 29.06.2017 and to allow the petition filed under Order 1 Rule 10 (2) C.P.C.

For Petitioners : Mr.K.R.Laxman

For Respondents : Mr.R.Sundar Srinivasan for R3 & 4

: No appearance for R1, 2, 5 to 7, 9 &10

ORDER

The plaintiffs are the revision petitioners. The plaintiffs filed an application in I.A.No.927 of 2016, seeking to implead the revenue authorities as proforma defendants in the suit.

2. It is the case of the plaintiffs that the suit has been filed for declaration of their title and for consequential reliefs. According to the plaintiffs, the defendants are attempting to take advantage of entries in revenue records and created a sale deed in respect of the suit property. According to the plaintiffs, the revenue authorities have to be impleaded in the suit, so that there would be an effective adjudication.



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3. The said application was strongly resisted by the respondents on the grounds that the plaintiffs have to independently establish their right and entitlement to the relief prayed for in the suit and cannot choose to implead the statutory / revenue authorities, even as a proforma defendants and the same infact would also result in the plaintiffs' managing to in getting over Section 50 of the Code of Civil Procedure. The learned counsel for the respondents also contends that the trial Court has rightly discussed the pros and cons of the impleading application and rightly dismissed the same and no interference was therefore warranted.

4. I have paid my anxious and careful consideration to the rival submissions advanced by the counsel on either side.

5. From the plaint, it is seen that the plaintiffs seek to declare their right in the suit property and for consequential permanent injunction to restrain the defendants from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property and for a declaration that the sale deed, dated 15.04.1993 is null and void.



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6. It is seen from the averments in the plaint that even according to the plaintiffs, the defendants, who are claiming under one Anandhayee's property, and Anandhayee is not the owner of the suit property and that her property is situated to the South of the suit property. The defendants have filed a written statement stating that the plaintiffs are not the owners of the suit property and the plaintiffs are claiming title based on revenue records and on the contrary, the defendants have purchased the property from the lawful owner Anandhayee and have been in lawful possession and enjoyment of the same.

7. Pending the suit, the plaintiffs have taken out the application to implead the revenue officials, invoking Order I Rule 10(2) C.P.C. The trial Court has dismissed the said application holding that the revenue officials are not proper and necessary parties and it is always open to the plaintiffs to summon the revenue officials to give evidence with regard to the facts in respect of which the plaintiffs are seeking clarity. I do not find any perversity, illegality or infirmity in the said order of the trial Court.



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Admittedly, the plaintiffs, having approached the Court seeking relief of declaration and permanent injunction, are bound to prove their case independently and in order to establish the plaint allegation, the presence of the revenue officials is not required or necessary under Order I Rule 10(2) C.P.C.

8. The Court shall permit the inclusion of new parties only when it finds that the proposed parties are not only proper, but, also necessary parties to adjudicate the issues involved in the suit. Here, admittedly the plaintiffs are bound to prove their case as pleaded in the plaint and they cannot seek to implead the revenue officials as proforma defendants and seek to gain any mileage out of it. I have gone through the plaint in entirety and also the written statement. I do not deem it a fit case where the presence of the revenue officials is imperative for the Court to decide the issues involved in the suit. The trial Court had rightly found that if at all the plaintiffs seek to procure any information, it was always open to them to summon the concerned officials at the time of trial of the suit, especially when the plaintiffs also do not seek any relief against the proposed parties.



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9. In view the above, I do not find that the proposed parties, viz., revenue officials, are necessary for an effective adjudication of the issues in the suit. There is no infirmity in the order of the trial Court.

10. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No
Ls

08.12.2023

To

1. The District Munsif,
Devakoattai.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI,J.

LS

order in
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