



CRP(MD).No.2036 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 25.09.2023

CORAM

THE HON'BLE MR.JUSTICE **C.KUMARAPPAN**

CRP(MD).No. 2036 of 2019 and
CMP(MD)(NPD).No.10437 of 2019

Kaliyamoorthy

Petitioner

Vs.

1.Babyammal
2.Sambasivam
3.Mahalingam

Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order, passed by the Principal District Munsif Court, Kumbakonam made in I.A.No.1094 of 2018 in O.S.No.368 of 2018, dated 26.07.2019.

For Petitioner : Mr.A. Saravanan

For Respondent No.1 : Mr.R. Paranjothi

ORDER

This Civil Revision Petition has been filed against the fair and



CRP(MD).No.2036 of 2019

decreetal order, dated 26.07.2019, made in I.A.No.1094 of 2018 in O.S.No. 368 of 2018, on the file of the Principal District Munsif Court, Kumbakonam.

2. The revision petitioner herein is the 1st respondent / plaintiff before the trial Court. The first respondent herein is the third party in the impleading petition. The respondents 2 and 3 herein are defendants 1 and 2 before the trial Court.

3. The learned counsel appearing for the plaintiff would contend that the plaintiff has filed a suit in respect of the suit property against the defendants viz., Sambasivam and Mahalingam, who are the respondents 2 and 3 herein. He would further submit that being the *dominus litus* and that the defendants alone have interfered with the possession, the plaintiff has filed a suit for injunction. It is the further submission of the learned counsel for the plaintiff that the third party one Babyammal has filed impleading petition, for impleading herself as defendant. According to the learned counsel for the plaintiff, the said application was erroneously allowed by the Court below and hence, prayed to allow this Civil Revision Petition by dismissing the order passed in I.A.No.1094 of 2018.



CRP(MD).No.2036 of 2019

4. However the learned counsel appearing for the third party / first respondent herein would submit that even according to plaint pleading, the third party has been shown as joint owner of the property. Therefore, when the third party / first respondent herein is a joint owner, she become necessary and proper party and prayed to dismiss this Civil Revision Petition.

5. I have given my anxious consideration to the submissions of the learned counsel appearing on either side and perused the materials available on record.

6. The learned counsel appearing for the first respondent herein would invite the attention of this Court in respect of her pleadings and contended that there was an injunction in her favour in earlier suit in O.S.No.180 of 2014 and therefore, she wanted to be impleaded in the present suit. However, the learned counsel appearing for the plaintiff would submit that in A.S.No.3 of 2018, the decree in the suit in O.S.No. 180 of 2014, was ultimately reversed and the suit was dismissed.

7. However, while perusing the plaint pleading, the plaintiff



CRP(MD).No.2036 of 2019

himself pleaded that the first respondent herein is a joint owner by virtue of the joint patta. When the plaintiff himself admits that the petitioner herein is a joint owner of the property, this Court is of the view that she has also have a right to be a party to the suit in order to have effective adjudication.

8. As rightly submitted by the plaintiff, the proposed parties may not be a a necessary party. Still even according to the plaintiff, when she is also a joint owner, this Court deem it appropriate to confirm the order passed by the Court below impleading her as a proposed party to the suit. Hence, this Court could not find any material or any grounds to interfere with the well considered order of the Court below.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

25.09.2023

Index : Yes / No
Internet : Yes / No
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CRP(MD).No.2036 of 2019

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To

The Principal District Munsif Court, Kumbakonam



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CRP(MD).No.2036 of 2019

C.KUMARAPPAN, J.,

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CRP(MD).No. 2036 of 2019 and
CMP(MD)(NPD).No.10437 of 2019

25.09.2023