



C.R.P(MD)No.2013 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P(MD)No.2013 of 2017
and C.M.P(MD)No.10089 of 2017

Angala Easwari @ Eswari Murugesan

... Petitioner /Petitioner / Plaintiff

.Vs.

- 1.The State of Tamil Nadu,
Rep. by its District Collector,
Madurai.
- 2.Tamil Nadu Hindu Religious & Charitable
Endowmeents Department,
Rep. by its Commissioner, Chennai.
- 3.The Executive Officer,
Vinayagar Kovil,
Elumalai
Pappathi (Died)
- 4.Vasimalai
- 5.Nagaraj
- 6.Pitchairaja
- 7.Eswaran
- 8.Kannan
- 9.Nagendran



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10.Rameshbabu

11.Angala Easwari

..Respondents / Respondents/

Defendants / Proposed parties

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order, dated 14.02.2017, passed in I.A.No.165 of 2016, in O.S.No.529 of 2014, on the file of the District Munsif cum Judicial Magistrate Court, Peraiyur.

For Petitioner : Ms.A.Niveditha
for Mr.S.Madhavan

For Respondents : Mr.A.Baskaran
Additional Government Pleader for R1

: No appearance for R2 to R11

ORDER

The plaintiff, aggrieved by dismissal of I.A.No.165 of 2016 in O.S.No.529 of 2014, on the file of the District Munsif cum Judicial Magistrate Court, Peraiyur, dated 14.02.2017, is the revision petitioner.

2. The suit has been filed for declaration that the plaintiff is the owner of the suit property and for consequential permanent injunction to restrain the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit property. The plaintiff states that for the title in the suit property in the plaint, the defendants 2



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and 3 were claiming rights over the same and hence, the suit was necessitated.

3. The third defendant has filed a written statement in the said suit. At that stage, the plaintiff has come up with the application under Order 1 Rule 10 (2) C.P.C, to implead the proposed respondents 4 to 12 as defendants in the suit.

4. The trial Court, after hearing the parties, dismissed the application holding that the plaintiff has to establish his or her title over the suit property and at best, the plaintiff's vendors could be examined as witnesses and finding that the proposed parties were neither proper nor necessary parties to decide the issues in the suit, proceeded to dismiss the application.

5. Aggrieved by the said order of the dismissal, the plaintiff has preferred the above revision on the ground that the trial Court erred in dismissing the application as, if the trial was proceeded with in the presence of the parties, it would avoid multiplicity of proceedings and there shall be a proper adjudication as well. Further, it is also contended



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that the third defendant has taken a specific plea in the written statement that even the vendors of the plaintiff did not have any right over the suit property and therefore, only under such circumstances, the application has been filed.

6. I have heard Ms.A.Niveditha, learned counsel for the petitioner and Mr. A.Baskaran, learned Additional Government Pleader for the first respondent. There is no representation for the respondents 2 to 11.

7. The learned counsel for the petitioner apart from putting forth the contentions raised in the grounds of revision, would also state that the plaintiff filed the application only in order to avoid multiplicity of proceedings and would also seek an amendment, proposing to include an alternative prayer as against the plaintiff's vendor, in the event of the plaintiff not succeeding to the relief prayed for in the suit. She would also rely on a judgment of this Court in the case of ***Alladi Staram V. P.L.Finance and Investment & Limited*** reported in ***2013-2-MWN(Civil) 510***, where the Court has held that even when there is no relief sought for against the proposed parties, if an effective decree cannot be



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passed in their absence and if the Court, in their presence would be able to give complete effective and proper adjudication upon all the issues, then the application for impleadment ought to be allowed. This Court, in the said decision relied on the ratio by the Hon'ble Supreme Court in the case of ***Ramesh Hirachand Kundanmal V. Municipal Corporation of Greater Bombay and others*** reported in ***1992-2-SCC-524***.

8. Per contra, the learned Additional Government Pleader appearing for the first respondent would submit that there is no infirmity in the order of the trial Court and the trial Court had rightly found that the proposed parties are not necessary for deciding the issues, raised in the suit and would therefore, pray for confirmation of the order of the trial Court.

9. Having heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first respondent and also on perusing the records, including the impugned order as well as the decision of this Court in ***Alladi Staram's*** case as referred herein supra, I am of the view that in the light of the submissions of the learned counsel for the petitioner that the plaintiff is



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proposing to amend the plaint in the event of the impleading application being allowed and in such event, in order to avoid multiplicity of the proceedings, besides also to assist the Court giving an effective adjudication on title to the suit property, claimed under the proposed parties and also in view of the third defendant specifically taking a stand in his written statement that even the plaintiff's vendor, did not have any title in the suit, I am of the view that the proposed parties are necessary parties to the suit. Further, in a civil suit of this nature, the plaintiff is the *Dominus Litus* and it is for the plaintiff to choose the persons to be arrayed as defendants in the suit, in order to get relief. Therefore, in view of the same, the order of the trial Court is liable to be set aside and accordingly is set aside.

10. The Civil Revision Petition stands allowed. The order, dated 14.02.2017, passed in I.A.No.165 of 2016, in O.S.No.529 of 2014, on the file of the District Munsif cum Judicial Magistrate Court, Peraiyur, is hereby set aside. There shall be no order as to cost. Consequently, connected Miscellaneous Petition is closed.

Index:Yes/No

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Internet: Yes/No

NCC: Yes/No

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To

1. The District Munsif cum Judicial Magistrate,
Peraiyur,
Madurai District.
2. The District Collector,
Madurai.
3. The Commissioner
Tamil Nadu Hindu Religious & Charitable
Endowments Department, Chennai.
4. The Executive Officer,
Vinayagar Kovil,
Elumalai
5. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI,J.

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