



C.R.P.No.674 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.674 of 2024
and
C.M.P.No.3412 of 2024

P.Krishnamoorthy

..Petitioner

Vs.

1.K.Ramesh

2.S.Thangaraj

3.A.Palanivel

4.E.Ganesan

5.R.Govindaraj

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 13.10.2023 made in I.A.No.5 of 2021 in O.S.No.109 of 2020 on the file of the IV Additional District Munsif, Salem.

For Petitioner : Mr.S.Siva Sankar

For Respondent 1 to 4 : No appearance



C.R.P.No.674 of 2024

ORDER

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This Civil Revision Petition arises against the order passed by the IV Additional District Munsif, Salem in I.A.No.5 of 2021 in O.S.No.109 of 2020.

2. O.S.No.109 of 2020 is the suit for permanent injunction. The claim of the plaintiffs is that the suit pathway not only belong to the plaintiff, but, also to all the residents who have ingress and egress to their property within the jurisdictional limits of Chennagiri Panchayat. Paragraph No.VII of the plaint shows that one Devi Ganesan is the owner of the property. She seems to have appointed, one Govindaraj as her power agent, since she is residing in Illinois, U.S.A. The plaintiffs further proceeds to state that the said Devi Ganesan is a rich and powerful person, having links with several powerful politicians. He would plead that an intimation was sent on 27.02.2020 by Devi Ganesan claiming that she has a right over the property. Being aggrieved by the claim made in the said letter, the suit came to be presented.



C.R.P.No.674 of 2024

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3. Instead of filing the suit as against Devi Ganesan, though the allegations are made against her, the suit had been presented only against her agent. The agent Govindaraj was not even shown in the cause title as the power agent of Devi Ganesan. The power agent who is not interested in the property remained *ex parte* in the proceedings. On coming to know of this fact, Devi Ganesan seems to have appointed the civil revision petitioner as her power agent and filed an application to implead himself in the proceedings. The said application came to be dismissed by the learned Judge holding that since Govindaraj had remained *ex parte*, Devi Ganesan does not have right to implead herself on the logic being that the act of agent bind the principal also.

4. It is pertinent to point out that the logic act of agent will bind the principal can be applied in situations where the original defendant had been arrayed as a power agent of Devi Ganesan. On the contrary, the power agent Govindaraj had been impleaded in his personal capacity. Nowhere, apart from the long cause title, does it show that Govindaraj had interfered with the possession of the property. The allegations is



C.R.P.No.674 of 2024

against Devi Ganesan and when Devi Ganesan comes forward with the application, the learned Judge has proceeded to dismiss the petition.

5. I am not in agreement with the order of the learned Judge.

When the allegations are made against a party in a suit, immediately that said person becomes proper and necessary party for defending the claim made against him or her. A perusal of the plaint makes it clear that it is the rich and powerful connection of Devi Ganesan which had forced the plaintiffs to approach the Court seeking the remedy as they have sought.

6. In the light of the above discussion, as specific allegations have been made against Devi Ganesan, the order passed in I.A.No.5 of 2021 in O.S.No.109 of 2020 dated 13.10.2023 is set aside. Devi Ganesan is impleaded as the party to the suit. The power of attorney shall file a separate petition under Order III Rule 1 of the Code of Civil Procedure to represent Devi Ganesan in the proceedings.



C.R.P.No.674 of 2024

7. With the above observation, this Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

05.09.2024

dsa

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

Speaking order / Non-Speaking order

To

The IV Additional District Munsif,
Salem.



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C.R.P.No.674 of 2024

V.LAKSHMINARAYANAN,J.

dsa

C.R.P.No.674 of 2024

05.09.2024