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C.R.P.(PD)No.2093 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.2093 of 2019

Maharajbeevi

.. Petitioner

Vs

1. Mathina Beevi

2. Hajabarugani

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 24.10.2018 made in IA No.188/2018 in O.S.No.74/2017 on the file of District Munsif cum Judicial Magistrate, Nannilam and dismiss the above said I.A.

For Petitioner : Mr.Ilangovan
For Respondents : R1 - Served
R2- No appearance



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C.R.P.(PD)No.2093 of 2019

ORDER

This civil revision petition challenges the order of the learned District Munsif Cum Judicial Magistrate, Nannilam in I.A.No.188/2018 in O.S.No.74/2017 dated 24.10.2018.

2. The civil revision petitioner is the plaintiff. Pleading that she had let out the property to her son on rent, she presented O.S.No.74 of 2017 for ejectment. On coming to know that the suit has been presented against her husband, the daughter-in-law of the civil revision petitioner/plaintiff, viz, the 1st Respondent filed I.A.No.188 of 2018 to implead herself as a party defendant to the suit.

3. Her plea is that she married the sole defendant on 27.04.1995 and from the wedlock, two children were born to her. On account of the fact that there are disputes between the family members, he pleaded that the mother had filed a suit against her son as defendant. She further pleaded that the Plaintiff is well aware of the fact that the sole defendant is staying abroad and it is the first respondent and her two children, of whom one is minor, is in possession and occupation of the property. In



C.R.P.(PD)No.2093 of 2019

order to defend her possession, she came forward with the present application.

4. This Application was resisted by the Civil Revision Petitioner pleading that the proposed party is neither a necessary party nor a proper party to the said proceedings. According to her, in a suit for ejectment, the proper and necessary parties are only the landlord and the tenant and the impleadment of her daughter-in-law, who is a third party, is unnecessary.

5. The learned Trial Judge, after hearing the arguments, allowed the application for impleadment. Hence the present Revision.

6. I heard Mr. Elangovan for Ms. T. Lavanya, for the Petitioner. The 1st respondent, though served, have not entered appearance. The 2nd Respondent is not a necessary party in this revision.

7. Mr. Elangovan, argued that the order of the learned Trial Judge in allowing the application is illegal and unsustainable. He pleads that it is the specific case of the civil revision petitioner/plaintiff that her son is



C.R.P.(PD)No.2093 of 2019

a tenant and therefore, the presence of the plaintiff's daughter-in-law is unnecessary.

8. Mr. Elangovan pleaded that there must be authorization by the defendant for the wife to contest the proceedings and since no authorization has been produced, the learned Judge ought not to have allowed the application.

9. I have carefully considered the submissions of Mr.Elangovan and gone through the records.

10. Mr.Elangovan is right that normally in a suit a for ejectment, the presence of a third party is not necessary. Here is a case where the mother pleads her son is a tenant. She has not produced any record to show that her son is in occupation of the property as a tenant. No doubt, it can be urged that the property belongs to the mother and the defendant is in permissive occupation. However, I have to take note of the fact that the sole defendant is residing abroad and is not residing in the suit schedule mentioned property.



C.R.P.(PD)No.2093 of 2019

11. The persons in occupation of the suit property are none else than the daughter-in-law and grandsons of the plaintiff. They are in possession of the property on account of the marriage that took place between the sole defendant and the 1st respondent on 27.04.1995. In case, an order of eviction is passed, the proposed party and her children would be seriously prejudiced.

12. With respect to the plea that the wife has not produced any authorisation letter from the husband, I have to point out that the wife is not accepting the alleged dispute between her husband and mother-in-law. On the contrary, her plea is that there is collusion between the Plaintiff and the Defendant in order to evict her from the suit property. She has also pointed out that out of the amounts that the mother is receiving from her son, she is paying a sum of Rs.100/-per day for the maintenance of herself and her children.

13. In my opinion, the learned Judge has exercised his discretion considering the overall facts and circumstances. That being the situation, I am not inclined to interfere with the order impugned, as an order of eviction that may be passed, will seriously prejudice the daughter-in-law



C.R.P.(PD)No.2093 of 2019

and grandsons who are in occupation of the property.

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C.R.P.(PD)No.2093 of 2019

V. LAKSHMINARAYANAN,J.

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14. In fine, this civil revision petition is dismissed. The learned Trial Judge shall consider the fact that civil revision petitioner is a senior citizen and shall expedite disposal of the suit. No costs. Consequently, connected Miscellaneous Petition is closed.

13.11.2024

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

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To

The District Munsif-cum-Judicial Magistrate at Nannilam.

C.R.P.(PD)No.2093 of 2019



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C.R.P.(PD)No.2093 of 2019