



CRP No.4846 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.4846 of 2023

1.Prakasham

2.Umaraani

3.Balakrishnan

... Petitioners

Vs.

1.Mahalingam

2.M.Ranganathan

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order passed in IA No.1 of 2022 in OS No.51 of 2016 on the file of the District Munsif Court, Omalur dated 14.06.2023 and allow the revision.

For Petitioners

: Mr.J.Prithivi

For Respondents

: Mr.P.Jagadeegan

for first respondent

Second respondent-Notice served-

None appeared



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ORDER

The civil revision petition is filed to set aside the docket order passed in IA No.1 of 2022 in OS No.51 of 2016 on the file of the District Munsif Court, Omalur dated 14.06.2023 and allow the Revision.

2. The third petitioner and first respondent herein filed the suit in OS.No.51 of 2016 on the file of the District Munsif Court, Omalur against the second respondent/defendant seeking permanent injunction. Pending trial, the petitioners 1 and 2 filed an application in IA No.1 of 2022 to implead themselves as plaintiffs on the ground that with regard to disputed pathway, the petitioners/proposed parties also have right over the pathway and they got it by partition in the year 1964 in C Schedule properties. The defendant had threatened the proposed plaintiffs on 10.07.2023 for using the said pathway. Therefore, the petitioners wants to implead themselves in the suit filed by the plaintiffs since the suit is with regard to same property against the same defendant. The learned Judge, without considering the aforesaid fact, by order dated 14.06.2023 had dismissed the said application.



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Challenging the said dismissal order, the petitioners have filed the present civil revision petition.

3. Learned counsel for the petitioners submits that since the suit is with regard to same property against the same defendant, the petitioners have to be impleaded in the suit. Hence, he seeks to set aside the order passed by the trial court.

4. Learned counsel for the respondents supported the impugned order. He submits that there is no reason to interfere with the said order and seeks to dismiss the Revision.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. The petitioners are the proposed parties and they want to implead themselves in the suit OS No. 51 of 2016 filed by the third petitioner and



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the first respondent herein in a suit for permanent injunction against the defendants on the ground that the petitioners obtained the property by way of a partition held in the year 1964 in C Schedule property and they are also using the same pathway, in which the defendant having dispute with the plaintiffs. It is not disputed that the proposed parties and the plaintiffs are claiming right over the same pathway.

7. It is necessary to extract Order 1 Rule 1, Order 1 Rule 10 sub clause 2 and Order 2 Rule 3 of CPC, which reads as under:

Order I Rule 1. Who may be joined as plaintiffs.

All persons may be joined in one suit as plaintiffs where—

(a) any right to relief in respect of, or arising out of, the same act or transaction or series of acts or transactions is alleged to exist in such persons, whether jointly, severally or in the alternative; and

(b) if such persons brought separate suits, any common question of law or fact would arise.]

Order 1 Rule 10(2) Court may strike out or add parties.—The Court may at any stage of the proceedings, either upon or without the



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application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name, of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

Order 2 Rule 3. Joinder of causes of action

(1) Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

(2) Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit.

8. Considering the above provisions, the petitioners have to be impleaded in the suit since the common question of law and the fact involved with regard to the plaint schedule properties and proposed



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plaintiffs and plaintiffs are using the same pathway for reaching their lands.

Further, in order to avoid multiplicity of proceedings, these proposed plaintiffs are necessary parties for effectually and completely adjudicate upon the dispute over the pathway in which the original plaintiffs claim their right. Therefore, the proposed parties should be added as plaintiffs. The original plaintiffs do not have any objection for the same. Therefore, the impugned order dated 14.06.2023 is hereby set aside and the Trial Court is directed to implead the proposed plaintiffs as plaintiffs and proceed the case and decide it on merit. Trial Court is directed to permit all the parties to let evidence.

9. In fine the Civil Revision Petition is allowed. There shall be no order as to costs. Consequently, CMP No.28723 of 2023 is closed.

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Index: Yes/No
Internet: Yes/No
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V.SIVAGNANAM, J.,

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