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C.R.P.No.5127 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE **V. LAKSHMINARAYANAN**

C.R.P.No.5127 of 2024
and
C.M.P.No.28757 of 2024

S.Palanisamy

.. Petitioner

VS

1.K.M.Chinnasamy @ K.P.M.Chinnu Gounder

2.The State of Tamil Nadu
Rep. By District Collector,
Tiruppur District, Tiruppur.

3.The Tahsildar,
Tiruppur South Taluk,
Tiruppur.

4.The Deputy Director,
Animal Husbandry Department,
Tiruppur.

5.The Village Administrative Officer,
Alagumalai Village,
Tiruppur South Taluk,
Tiruppur District.

.. Respondents

Petition filed under Article 227 of the Constitution of India
against the Fair and Final Order dated 24.09.2024 passed by the
Learned Principal Subordinate Judge, Tiruppur in I.A.No.8 of 2022 in
O.S.No.285 of 2022.



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For Petitioner : Mr.A.Sri Ram
For Respondents : Mr.T.Arun Kumar
Additional Government Pleader
for R2 to R5

ORDER

This civil revision petition challenges the dismissal of I.A.No.8 of 2022 in O.S. No.285 of 2022 by the learned Principal Subordinate Judge at Tiruppur on 24.09.2024.

2. O.S.No.285 of 2022 is a suit for declaration that the plaintiff is entitled to the 'item 4' of the suit schedule mentioned property and for permanent injunction, restraining the defendants from interfering with his peaceful possession and enjoyment of the same.

3. The case of the plaintiff is that one K.P.Muthusamy Gounder had purchased the properties four decades ago. He had not encroached on any portions belonging to the State of Tamil Nadu, the first defendant. The defendants viz., the State respondents pursuant to an order of the Court in W.P.No.25697 of 2021, claimed that there is an encroachment of "mandhai poramboke" as well as of "panchami" lands and hence, attempted to dispossess the



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plaintiff from the suit schedule mentioned property. Hence, the suit for declaration of their title.

4. The civil revision petitioner claimed that he is representing the interest of the general public in the area and he is the party in W.P.No.25697 of 2021. Therefore, he sought to implead himself as a party defendant to the suit. He and three other gentlemen filed applications in I.A.Nos.8 and 9 of 2022 seeking to implead themselves in the said suit. After receipt of a counter from the plaintiff, learned Subordinate Judge proceeded to dismiss the applications. Hence, this revision as against I.A.No.8 of 2022.

5. I heard Mr.A.Sriram for the civil revision petitioner and the learned Additional Government Pleader for respondents 2 to 5.

6. Mr.Sriram urges that since the property belongs to the Government and as the first respondent herein is attempting to grab the said property by way of the suit, they were constrained to file an implead application. He states that the civil revision petitioner is a proper and necessary party to the proceedings and therefore, the order of dismissal by the learned Principal Subordinate Judge is erroneous.



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7. I have carefully considered the submissions of Mr.Sriram.

8. As the plaintiff is the *dominus litis*, he is entitled to implead the persons against whom he has a grievance. He cannot be called upon to fight a litigation against whom he had not proposed to file the suit. It is for the plaintiff to select his opponent and unless and until the proposed party is proper and necessary, the issue of impleading a rank third party to the suit does not arise.

9. It is the clear and categorical case of the first respondent that suit 'item no.4' absolutely belongs to him. It is his fear that the respondents 2 to 5 herein, on account of the orders passed in W.P.No.25697 of 2021, are attempting to interfere with his possession. The claim of respondents 2 to 5 is that the property belongs to the State of Tamil Nadu. They are contesting the case.

10. Whether the land belongs to the State of Tamil Nadu or to the plaintiff is a matter which has to be decided in the suit. In such a proceedings, the presence of the civil revision petitioner who claims that the property belongs to the Government is absolutely unnecessary. The State is represented by the District Collector and



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apart from him, the Tahsildar, the Deputy Director of Animal Husbandry Department and the Village Administrative Officers has been made parties to the suit. They are authorised and competent to represent the interest of the State. The State does not require the struts that will be supplied by the civil revision petitioner, to defend, its case.

11. A proper or necessary party is one without whom the Court cannot pass effective decree. Even in the absence of the civil revision petitioner, the Court can pass a decree in the suit. Therefore, the presence of the civil revision petitioner is unnecessary. It is an attempt to fish in troubled water which I am not inclined to encourage.

12. The civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2024

Index:Yes/No
Neutral Citation:Yes/No
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To

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The Principal Subordinate Judge,
Tiruppur.



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V. LAKSHMINARAYANAN,J.

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