



WEB COPY



C.R.P.(MD)No.232 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P(MD)No.232 of 2024

and

CMP(MD)No.990 of 2024

G.Ramalingam : Petitioner/Petitioner/
1st Respondent/Plaintiff

Vs.

1.S.Venkatesh
2.V.Rani : Respondents 1 and 2/
Respondents 1 and 2/
Petitioners/R4 and R5
3.T.N.K.Balaraman
4.B.Sankaranarayanan @
Pradeep
5.B.Mareeswari : Respondents 3 to 5/
Respondents 3 to 5/
Respondents 2 to 4/
Respondents 1 to 3

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order passed in IA No.02 of 2023 in OS No.76 of 2015 on the file of the District Munsif Court, Virudhunagar, dated 29/11/2023.

For Petitioner : Mrs.Jessi Jeva Priya

For Respondents : Mr.S.V.Nagarajan



C.R.P.(MD)No.232 of 2024

O R D E R

WEB COPY

This civil revision petition has been filed seeking in order to set aside the order, dated 29/11/2023 passed in IA No.02 of 2023 in OS No.76 of 2015 by the District Munsif Court, Virudhunagar.

2.The facts in brief:-

Suit in OS No.76 of 2015 was filed by the petitioner herein as plaintiff, seeking the relief of declaration that the property mentioned as 'EF' and the channel absolutely belongs to him and for permanent injunction, mandatory injunction directing the defendants to remove the drainage channel put up by the 3rd defendant and for costs. Pending further process, a petition was taken out by the 3rd parties namely the respondents 1 and 2 herein to implead themselves as party defendants in the suit under Order 1 Rule 10(2) CPC and section 115 CPC. That came to be allowed by the trial court.

3.Against which, this civil revision petition has been preferred by the plaintiff.

4.In the petition, it has been stated by the proposed parties that they purchased the property bearing Door No.9B from the 4th respondent through a sale deed,



C.R.P.(MD)No.232 of 2024

dated 21/04/2022, On the south of the property purchased there is a drainage channel. In respect of which, the plaintiff has filed the suit to protect the interest. So, they must be added as party defendants, so that multiplicity of proceedings can be avoided.

5.That was resisted by the plaintiff by filing a counter stating that pending the suit only, the proposed parties purchased the properties on the northern side, from the 4th respondent. So, the sale itself is affected by principles of *lis pendense*. It is also further stated that it is a collusive suit between the proposed parties and the 4th respondent.

6.The trial court allowed the petition making the observation that when the proposed parties purchased properties from the 4th respondent, they are also interested in the subject matter of the suit. If they have not included or added as parties, it will cause multiplicity of proceedings. Their presence is required for pending adjudication.

7.Against which, this civil revision petition has been preferred.



WEB COPY

8.Heard both sides.

9.The learned counsel appearing for the petitioner would submit that the suit was filed in the year 2015. Pending suit only, from the 4th respondent, the proposed parties purchased the properties in the year 2022 at the fag end of the trial process. This petition has been filed only to drag on the proceedings, their presence is not required for considering this issue.

10.Per contra, it is the contention of the respondents that only their presence is required for binding adjudication, since they become the title holders of the property situated on the northern side of the suit property. If any decree is passed without impleading them, then their right will be affected.

11.As stated in the preamble portion of the order, it is a case of the plaintiff that the third defendant purchased the property from his own brother namely Subramanian. After purchase, the 3rd defendant put up construction. He tried to connect the drainage channel to the plaintiff's drainage. That was prevented by him. When he was not available, during his absence period from the place, the 3rd defendant connected his drainage channel.



C.R.P.(MD)No.232 of 2024

WEB COPY

12. Reading of the plaint averments shows that the 3rd defendant alleged to have illegally connected his drainage channel. So, whether the channel mentioned as EF and $\frac{3}{4}$ feet portion belongs to him is a matter for consideration by the trial court and consequently, whether the 3rd defendant is bound to remove the drainage channel. So, for deciding this issue, the proposed parties are also necessary parties. If any decree is passed in their absence, then multiplicity of proceedings may arise. In order to avoid the unnecessary complications, I am of the considered view that the order passed by the trial court is required no interference.

13. In the result, these civil revision petitions stand **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

26/03/2024

Index: Yes/No
Internet: Yes/No
er



C.R.P.(MD)No.232 of 2024

To,

WEB COPY

- 1.The District Munsif,
Virudhunagar.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.232 of 2024

G.ILANGOVAN, J

er

C.R.P (MD) No.232 of 2024

26/03/2024