



C.R.P.(MD) No.294 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2024

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No.294 of 2022

and

C.M.P.(MD) No.1313 of 2022

G.Pazhani
S/o.Ganapathy

... Petitioner

Vs.

1.Selva Ganapathy
W/o.Seenivasan
through her power agent
and father Kathirvel

2.Ganapathy Nadar
S/o.Senthivel Nadar

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 23.11.2021 passed by the District Munsif Court, Rajapalayam in I.A.No.1 of 2021 in O.S.No.61 of 2019.

For Petitioner : Mr.M.Ashok Kumar

For R1 : Mr.P.Subbaraj

For R2 : No appearance



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ORDER

WEB COPY The present Civil Revision Petition has been filed against the order dated 23.11.2021 passed by the District Munsif Court, Rajapalayam, in I.A.No.1 of 2021 in O.S.No.61 of 2019.

2. The first respondent, as the plaintiff, filed the above suit in O.S.No.61 of 2019 seeking a bare injunction restraining the second respondent/defendant from interfering with the peaceful possession and enjoyment of the suit property.

3. During the pendency of the suit, the proposed party, namely the revision petitioner herein, filed an Interlocutory Application in I.A.No.1 of 2021 under Order 1 Rule 10(2) of the Civil Procedure Code (CPC), to implead himself as a party in the above suit, stating that on 03.02.2020, the suit property was settled in his favour by his father, the defendant in the suit and therefore, he would be a necessary party to the suit to have a fair adjudication.

4. The same was resisted by the first respondent/plaintiff, by stating that during the pendency of the suit, the defendant/the father of the



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revision petitioner executed a Settlement Deed in favour of the revision petitioner/proposed party with the intention to defeat the valuable rights of the first respondent/plaintiff.

5. The trial court, considering the averments made in the application and the counter affidavit, dismissed the application, stating that the first respondent/plaintiff is the *dominus litis* (master of the suit), and hence, it is the right of the first respondent/plaintiff to decide whether to implead a party in the suit, and that the filing of the said application is only a delay tactic to stall the proceedings in the suit.

6. Aggrieved by this, the present Civil Revision Petition has been filed.

7. The learned counsel for the revision petitioner/proposed party would submit that the revision petitioner is a necessary party to the suit, as he has derived title from his father, who is the defendant in the suit, by way of a Settlement Deed, and his father has abandoned the pursuit of the case; that the revision petitioner/proposed defendant ought to have been included in the suit to meet the ends of justice; and that, however, the trial



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court, without considering the above facts, erroneously dismissed the said application, which warrants interference by this Court.

8. The same is objected to on the side of the first respondent/plaintiff, by stating that the trial court has correctly observed that the first respondent/plaintiff is the *dominus litis* and, therefore, has the discretion to decide whether to implead a party in the suit and therefore, the impugned order is liable to be confirmed.

9. Heard on both sides. Records perused.

10. It is not in dispute that the second respondent/defendant (the father of the revision petitioner/proposed defendant) executed a Settlement Deed in favour of the revision petitioner/proposed defendant. Though this is a suit for a bare injunction and the first respondent/plaintiff is the *dominus litis*, in order to meet the ends of justice, the revision petitioner/proposed defendant would be a proper party to resolve the dispute in controversy. The trial court ought to have considered these aspects. Therefore, the impugned order passed by the trial court is set aside, and this Civil Revision Petition is liable to be allowed.



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11. Since the suit is of the year 2019, the trial court is directed to dispose of the suit on merits, affording sufficient opportunities to the parties, without granting unnecessary adjournments, expeditiously, as the business of the court permits, within a period of six months from the date of receipt of a copy of this order.

12. In the result, this Civil Revision Petition stands allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

15.11.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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Copy To:

The District Munsif,
Rajapalayam,
Virudhunagar District.



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K.GOVINDARAJAN THILAKAVADI, J.

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