



C.R.P.(MD)No.879 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 27/03/2024

Date of Pronounced : 05/06/2024

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The Hon'ble Mr.Justice **G.ILANGO VAN**

CRP (MD) No.879 of 2022

and

CMP (MD) No.3496 of 2022

KALEESWARI : Petitioner/Respondent/
Plaintiff
Vs.

1.KARUPPAIAH : 1st Respondent/Petitioner/
3rd Party

2.The District Collector,
O/o.The District Collectorate,
Sivagangai,
Sivagangai District.

3.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

4.The Tahsildhar,
O/o.The Tahsildhar,
Ilayankudi Taluk,
Sivagangai District.

: Respondents 2 to 4/
Respondents 2 to 4/
Defendants

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for the entire records in relating to the fair and decreetal order, dated 29/10/2021 made in IA No.1 of 2021 in OS No.39 of 2020 on the file of the District Munsif-cum-Judicial Magistrate, Ilayankudi and to set aside the same.



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For Petitioner : Mr.M.S.Jeyakarthik
For 1st Respondent : Mr.D.Senthil
For R2 to R4 : Mr.A.Sivanu Pandian
Government Advocate
(Civil)

O R D E R

This civil revision petition has been filed seeking to set aside the fair and decreetal order, dated 29/10/2021 passed in IA No.1 of 2021 in OS No.39 of 2020 by the District Munsif-cum-Judicial Magistrate, Ilayankudi.

2.The facts in brief:-

Suit in OS No.39 of 2020 is filed by plaintiff seeking the relief of declaration and consequential injunction and for costs. The defendants entered appearance and filed the statement also. Pending further process, the impugned petition in IA No.1 of 2021 is taken out by the proposed party to implead himself as a party defendant. That was allowed by the trial court. Against which, this civil revision petition is preferred.

3.The brief facts set out by the petitioner in the petition is briefly stated as follows:-

The plaint property is the ancestral property of the proposed party also. The plaintiff obtained patta



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illegally. Against which, he preferred appeal before the Revenue Authorities and now it is pending before the Tahsildhar, Ilayankudi. During patta proceedings in **ந.க.அ11/5151/2016**, dated, 24/10/2017, it was confirmed by the Revenue Authorities that one Poomayil, W/o.Kalimuthu is in possession of the property. On the basis of the recommendation made by the Revenue Authorities, she filed an application seeking issuance of patta. Because of the pendency of the suit, no order is passed by the Revenue Authorities so far. So, she is also necessary party in the suit.

4.That was resisted by the respondents by filing a detailed counter.

5.After hearing both sides, the trial court found that the presence of the proposed party is required for final adjudication of the interest and in the subject matter of the property.

6.Against which, this civil revision petition is preferred.

7.Heard both sides.



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8.Only a point to be considered is whether the proposed party is a proper and necessary party.

9.As set out in the preamble portion, it is seen that the proposed party is also seeking rival possession and title over the property. So the presence of this petitioner is necessary for final adjudication. If the petition is rejected, then the proposed party may be compelled to file a separate suit, which will cause unnecessary multiplicity of proceedings.

10.It is a basic law that all the parties having interest in the subject matter of the issue must be added as necessary party and in the absence of necessary parties, even if decree is passed, it may subject to further litigation.

11.On that sole ground, the discretion exercised by the trial court suffers no illegality.

12.In the result, this civil revision petition fails and the same is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

Index:Yes/No
Internet:Yes/No
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05 /06/2024



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To,

- 1.The District Munsif-cum-Judicial
Magistrate,
Ilayankudi,
Sivagangai District.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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