



C.R.P(PD)(MD)No.1608 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(PD)(MD)No.1608 of 2024

and

CMP(MD)No.9480 of 2024

1.Pandiarajan
2.Backiyalakshmi ... Petitioners/Respondent 1 & 2/Plaintiffs

VS.

1.Vijayaraghavan
2.Naganathan
3.Jayakumar ... Respondents 1 to 3/Petitioners 1 to 3/
Proposed Defendants 4 to 6

4.The Government of Tamil Nadu,
Represented by
The District Collector,
District Collectors Office,
Virudhunagar.

5.The Tahsildar,
Tahsildar Office,
Sivakasi Taluk,
Virudhunagar District.

6.The Block Development Officer,
Block Development Office,
Satchiyapuram,
Sivakasi Taluk,
Virudhunagar District. ... Respondents 4 to 6/Respondents 3 to 5/
Defendants 1 to 3



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Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 09.01.2024 made in I.A.No.1 of 2022 in O.S.No.80 of 2017 on the file of the Court of the Subordinate Judge, Virudhunagar.

For Petitioners : Mr.V.Meenakshi Sundaram
for Mr.G.Mohankumar

For R4 to R6 : Mr.S.R.A.Ramachandran
Additional Government Pleader

ORDER

The Civil Revision Petition is filed against the order dated 09.01.2024 made in I.A.No.1 of 2022 in O.S.No.80 of 2017 on the file of the Subordinate Judge, Virudhunagar.

2.The plaintiffs are the petitioners before this Court. The plaintiffs have filed a suit to declare that the suit property belongs to them. It is the contention of the plaintiffs that the suit property is a Grama natham and therefore, it belongs exclusively to the plaintiffs and the suit is laid as against the respondents 4 to 6, who are the District collector, Tahsildar and Block Development Officer. Whiles o when the suit was pending from the year 2017, in order to defeat the rights of the plaintiffs, a



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third party filed a writ petition before this court in W.P.(MD)No.18266 of 2017 and this Court after considering the matter pending before the civil Court by way of *lis* between the plaintiff and the Government authorities, passed an order stating that further action of removal of encroachment will be dependent only on the judgment to be delivered in the suit. When the suit is being proceeded, thereafter, one Vijayaraghavan and two others, namely, the respondents 1 to 3 herein, have filed the impleading application. In the said impleading application, they have claimed that the suit property is being used as a common pathway by the villagers and suddenly the plaintiff have encroached.

3.*Mr.V.Meenakshi Sundaram*, learned counsel appearing on behalf of the petitioners would submit that the plaintiffs are the dominus litus. When the official respondents have created a cloud over the title of the plaintiffs by taking actions challenging the title of the plaintiffs, the plaintiffs have filed the suit as against the official respondents. It is not the property of the impleaded respondents. They are only claiming it as a common pathway. In that event, only the official respondents are the necessary parties to the suit to decide the *lis*. Therefore, only to drag on the proceedings unnecessarily, when the suit is pending from the year 2017,



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now the impleading petition is filed and is allowed. He would, therefore, pray that this Court should interfere. He would also submit that a perusal of the impleading application filed by the respondents 1 to 3 would reveal that as if they are representing the villagers and the application is filed in the representative capacity.

4.I have considered the said submissions made by the learned counsel for the petitioners and perused the material records of the case.

5.It is true that if the property is village natham, the official respondents will not have predominant title in respect of the same. The only question is which is to be decided is that if any part of the Natham is being used for a public purpose, say as contended in the present case as a pathway, then the Court has to decide whether the land was actually in such use or not. In that view of the matter, eventhough the plaintiffs being dominus litus is well within their right to lay the suit only as against the official respondents, by representing the villagers when impleading application is filed by the respondents 1 to 3 and the trial Court found that their presence will be useful for a fuller and proper decision on the *lis* in the matter and exercise its discretion allowed the impleading application, I



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do not find any compelling reason to interfere with the order of the trial Court.

6.The suit is pending from the year 2017. The impleading application and the contest on behalf of the respondents 1 to 3 shall be taken as representing the all or any of the villagers who may be interested in defending the pathway. The same cannot be dragged on further by allowing further parties etc. The trial Court shall proceed further with the suit in accordance with law, in any event not later than six months from the date of receipt of a copy of this order.

7.With the above observations, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

23.07.2024

NCC : Yes / No
sjj

To

The Subordinate Judge, Virudhunagar.



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D.BHARATHA CHAKRAVARTHY, J.

sjj

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