



C.R.P.(MD).No.1655 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)No.1655 of 2019

and

C.M.P(MD) No.8589 of 2019

1. Balasubramani

2. Anantha Krishnan

... Petitioners/Respondents 1 and 2
Defendants

-vs-

1. Murugan

... 1st Respondent/Petitioner/
Plaintiff

2. Soundaram

3. Krishnaveni

4. Neelaveni

5. Vanamala

... Respondents 2 to 4/ Respondents 3 to 6/
Proposed Defendants 3 to 6

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order made in I.A.No.1778 of 2018 in O.S.No.492 of 2009 on the file of the Principal District Munsif Court, Dindigul, dated 25.01.2019.



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For Petitioners : Mr.D.Venkatesh

For Respondents : Mr.H.Lakshmishankar – for R1
: Mr.T.Lenin Kumar – for R2 to R4
: Mr.M.P.Senthil – for R5

ORDER

The present Civil Revision Petition has been filed by the defendants in a suit for declaration and permanent injunction challenging the order passed by the trial Court, wherein, the trial Court had allowed the application to implead the sisters of the original defendants as additional defendants.

2. The first respondent in the revision petition had filed O.S.No.492 of 2009 on the file of the Principal District Munsif Court, Dindigul, for the relief of declaration that the suit schedule property is a common pathway between the plaintiff and the defendants and for permanent injunction not to disturb his usage. The defendants had filed a written statement contending that the sisters of the defendants are also co-sharers of the said property and without impleading them the suit is bad for non-joinder of necessary parties.



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3. After examination of P.W.1 was completed, the present I.A.No.1778 of 2018 was filed by the plaintiff to implead the sisters of the original defendants. The said application was resisted by the original defendants. However, the trial Court found that since the defendants had raised a ground in the written statement that they are necessary parties, has proceeded to allow the application. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the petitioners/defendants 1 and 2 though the said defence of non joinder and necessary parties has been raised in the written statement on 01.08.2011, the present application has been filed in the year 2018 after the delay of 7 years, that too, after examination of P.W.1 was completed. Impleading new parties would cause prejudice to the original defendants. Hence, he prayed for allowing the Revision Petition.

5. The learned counsel appearing for the first respondent/plaintiff contended that the defendants in the suit along with their sisters had already filed O.S.No.461 of 2009 for the relief of declaration of title and permanent



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injunction with regard to the same suit schedule property as against the plaintiff. Both the suits are being tried simultaneously. Therefore, no prejudice would be caused to the original defendants by impleading the sisters as the additional defendants. He further contended that the additional defendants who were impleaded have not chosen to challenge the order of impleadment in I.A.No.1778 of 2019. Hence, he prayed for dismissal of the Revision Petition.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The specific stand of the defendants in the written statement is that apart from the original two defendants, the sisters of them are also necessary parties to the suit. In fact, the original defendants along with their sisters have already filed O.S.No.461 of 2009 for the relief of declaration of title and permanent injunction. Both the suits are being tried simultaneously. Therefore, no prejudice would be caused to the defendants 1 and 2/petitioners by way of impleading their sisters. Therefore, the trial Court has rightly allowed the impleading application and there is no merit in the present



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Revision Petition.

8. It is brought to the notice of this Court that both the suits in O.S.No. 492 of 2009 and O.S.No.461 of 2009 have been transferred to the District Munsif Court cum Judicial Magistrate Court, Athoor and renumbered as O.S.No.192 of 2019 and O.S.No.190 of 2019.

9. In view of the above, this Civil Revision Petition stands dismissed and the District Munsif Court and Judicial Magistrate Court, Athoor is directed to dispose of the suits on or before **31.08.2024**. It is needless point out that after impleading, the proposed defendants and the defendants 1 and 2 are at liberty to file written statement/additional written statement within a period of four weeks there from. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

03.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To



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1. The Principal District Munsif Court,
Dindigul.
2. The District Munsif Court and Judicial Magistrate Court,
Athoor.

R.VIJAYAKUMAR,J.

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