



C.R.P.No.328 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.B. BALAJI

C.R.P.No.328 of 2022

and

CMP.No.1704 of 2022

Rajammal

...Petitioner

Vs.

1. S.Chidambaram
2. S.Gurusamy
3. Revenue Inspector,
Pallipalayam Division,
Pallipalayam Town, Namakkal Dist.
4. The Tahsildar,
Kumarapalayam,
Kumarapalayam Taluk,
Namakkal District.
5. The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.
(Amended, vide Court order dated 22.04.2025 made in
CMP.No.15315 of 2024 in CRP.No.328 of 2022)
6. The District Collector,
Namakkal.

...Respondents



C.R.P.No.328 of 2022

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 21.10.2021 made in I.A.No.183 of 2018 in O.S.No.222 of 2020 on the file of the District Munsif Court, Kumarapalayam.

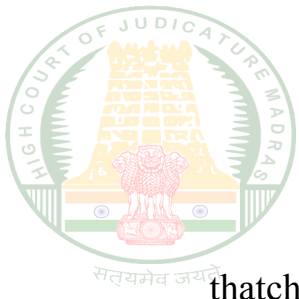
For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.D.Lakshmipathy, for R1 & R2
: Mr.D.Gopal, GA, for R3 to R6

ORDER

The revision petition has been filed challenging the order in I.A.No.183 of 2018 in O.S.No.222 of 2020 impleading the respondents 1 and 2 as party defendants in the suit subsequent to an application taken out under Order 1 Rule 10 of CPC by the proposed parties namely defendants 5 and 6 since being impleaded as defendants 5 and 6.

2. The learned counsel for the petitioner would state that the suit has been filed against the Government authorities challenging the Section 6 notice issued to the plaintiff under the Tamil Nadu Land Encroachment Act, 1905 and for consequential permanent injunction to restrain the defendants 1 to 4 from interfering with the plaintiff's peaceful possession and enjoyment of the property, including dismantling the



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thatched house by force. In the said suit the defendants have filed a written statement contending that subsequent to the Section 6 notice, they are contemplating issuance of Section 7 notice, post which, suitable action would be taken. At that stage, an application to implead the defendants 5 and 6, came to be filed stating that only on the complaint of the defendants 5 and 6, even the Section 6 notice came to be issued.

3. It is also stated by the defendants 5 and 6 that they have right in the said property and they trace their title to one Parvathiammal who was allotted with the said property under a partition deed dated 14.11.1959. It is further contended by the defendants 5 and 6 that, in a portion of the south-north concrete road, the plaintiff has encroached by putting up a thatched shed, thereby, denying the only access available to the defendants 5 and 6. On such premise they have sought for impleadment. The trial Court has also accepted the case of the defendants 5 and 6 and allowed the impleading petition. Aggrieved by the said order, the plaintiff has filed the above revision.



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4. The learned counsel for the petitioner

Mr.Marudhachalamurthy would state that the trial Court has not even rendered a finding as to whether the defendants 5 and 6 are proper and necessary parties, which should be decided in an application under Order 1 Rule 10 of CPC. He would further bring to my notice, the relief sought for in the suit and contend that the defendants 5 and 6 have absolutely no role to play. He therefore, prayed for allowing the Civil Revision petition and consequential dismissal of I.A.No.183 of 2018.

5. Per contra learned counsel for the defendants 5 and 6 would state that the defendants 5 and 6 have a right of usage in the said pathway. It is only at the behest of the defendants 5 and 6 that action came to be initiated against the plaintiff who has encroached the pathway. The learned counsel would therefore state that the defendants are proper and necessary parties to throw light on the encroachment made by the plaintiff.

6. Mr.D.Gopal, learned Government Advocate appearing for the respondents 3 to 6 would state that the defendants 1 to 4 are



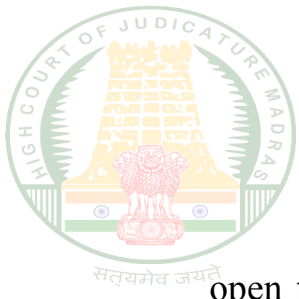
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diligently defending the suit and they have also clearly indicated in the written statement that due process of law has been initiated and being followed and action being taken effectively.

7. The only point that falls for consideration in this revision is whether the defendants 5 and 6 would be proper and necessary parties to adjudicate the issues that arise in O.S.No.222 of 2020. The relief that is sought for in the above suit is a relief of declaration that the Section 6 notice under the Land Encroachment Act is void and unenforceable. Even assuming the action was initiated only pursuant to the complaint of defendants 5 and 6, it would not clothe the defendants 5 and 6 with a right to be heard as necessary parties in the suit for declaration which is challenging a statutory notice that was issued to the plaintiff.

8. It is a matter purely between the plaintiff and the statutory authorities. The presence of defendants 5 and 6 will not in any way assist the Court in adjudicating the issues that arise for consideration in the said suit. If at all the defendants 5 and 6 have any independent right or are aggrieved by the alleged encroachment made by the plaintiff, it is always



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open to the defendants 5 and 6 to take recourse to law as they may be advised. By impleading themselves in the present suit, the defendants 5 and 6 cannot enlarge the scope of the relief sought for by the plaintiff. As rightly contended by Mr.Mardhachalamurthy, learned counsel for the petitioner, the trial Court has not even given a finding as to whether and how the defendants 5 and 6 are proper and necessary parties which is the only test that has to be decided by the Court while deciding an application under Order 1 Rule 10 of CPC.

9. In view of the above, the Civil Revision Petition is allowed. It is open to the respondents 1 and 2 to workout the remedy in the manner known to law.

27.06.2025

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Index	: Yes / No
Speaking Order	: Yes / No
NCC	: Yes / No



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P.B. BALAJI, J.

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