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C.R.P. (PD) .No.5123 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.5123 of 2024
and C.M.P.No.28745 of 2024

T.Tamilarasan

.. Petitioner

Vs.

1.M.Vezhavendan

2.K.Natarajan

3.T.S.Umesh Raj

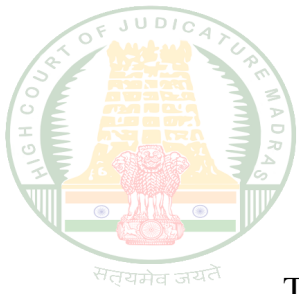
.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 12.11.2024 passed in I.A.No.3 of 2023 in O.S.No.276 of 2023 on the file of the Additional District Munsif, Poonamallee.

For Petitioner : Ms.S.P.Arthi

For RR 1 & 2 : Mr.V.R.Appaswamee

For R3 : Mr.Raghavendran



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ORDER

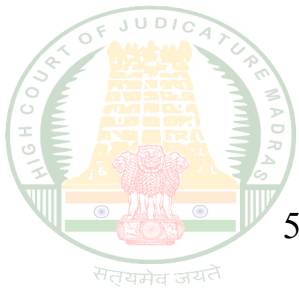
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This civil revision petition challenges the order passed by the learned Additional District Munsif, Poonamallee, in I.A.No.3 of 2023 in O.S.No.276 of 2023 dated 12.11.2024.

2.The civil revision petitioner is the plaintiff, and the 3rd respondent is the defendant in O.S.No.276 of 2023.

3.The plaintiff claimed that he is a tenant under the 3rd respondent and is running a hotel. As the 3rd respondent is interfering with his possession, he came forth with the present suit.

4.Summon was served on the 3rd respondent – defendant. He did not contest the suit and remained *exparte*. The suit has been adjourned for recording *exparte* evidence. At that stage, the respondents 1 & 2 herein filed an application to implead themselves as parties to the suit. This application was numbered as I.A.No.3 of 2023.

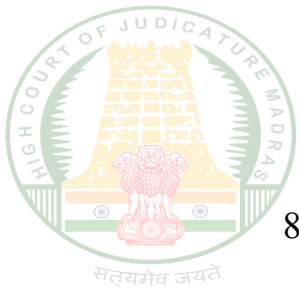


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5.The plea of the respondents 1 & 2 is that they entered into a rental agreement on 12.07.2022 with the 3rd respondent and took possession of the property. They pleaded that the civil revision petitioner and the 3rd respondent are colluding, with one another, in order to deprive them of their rights. Hence, they wanted to implead themselves as parties to the suit.

6. This application was resisted by the plaintiff pleading that the respondents 1 & 2 have no right over the property. It is for them to file a independent claim. The plaintiff pointed out that the right of the third parties cannot be agitated in this suit. The defendant remained *exparte* and did not file a counter.

7.The learned Trial Judge took up the application for disposal. After perusing the rental agreement dated 12.07.2022 allegedly entered into between the respondents 1 & 2 and the 3rd respondent, came to a conclusion that they are necessary parties to the suit. Hence, she allowed the application. Hence, this revision at the instance of the plaintiff.

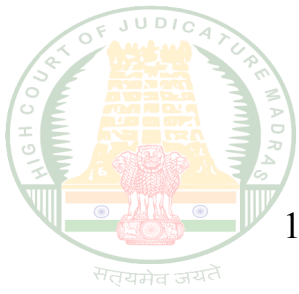


8.I heard Ms.S.P.Arthi for the civil revision petitioner, Mr.V.R.Appaswamee for the respondents 1 & 2 and Mr.Raghavendran for the 3rd respondent.

9.Ms.S.P.Arthi pleads that the plaintiff is entitled to make such persons as a party to the suit as who are necessary for obtaining the relief. She pleads that her client is not alleging any interference over his possession, at the hands of the respondents 1 & 2. Hence, they are not necessary parties.

10.Per contra, Mr.V.R.Appaswamee pleads that a sum of Rs.10,00,000/- had been paid by the respondents 1 & 2 to the 3rd respondent and in addition, they are paying a sum of Rs.60,000/- per month as rent to the 3rd respondent. He states that if a decree is passed in this suit, it will affect the rights of the respondents 1 & 2 and hence, they are necessary to be impleaded. Therefore, he seeks for confirmation of the impugned order.

11.I have carefully considered the submissions of both sides and gone through the impugned order.



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12.It is a fundamental principle of law that the plaintiff is the *dominus litus*. Further, a necessary party is one without whose presence a Court cannot pass an effective decree in the suit. A proper party is one whose presence would aid the Court in rendering a just verdict. If a person is neither a proper or necessary party, his or her presence in the suit is unnecessary.

13.Taking the case of the respondents 1 & 2 at the face value, they claim that they are the tenants under the 3rd respondent. They have no axe to grind against the civil revision petitioner. If they feel that the civil revision petitioner and the 3rd respondent are colluding with one another and are seeking to interfere with their possession, their remedy is not to piggy back on the litigation initiated by the civil revision petitioner. If they are so aggrieved and if they are so advised, the appropriate remedy is to file a suit impleading such persons who are interfering with their possession.

14.The present suit is the one which the civil revision petitioner is claiming to be a tenant under the 3rd respondent and is aggrieved by the fact that the 3rd respondent is interfering with his possession. In such a suit, the presence of a third party is neither relevant nor necessary. In fact, it is not a



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suit for declaration, but a suit for mere injunction. Even if the suit were to be decreed, it only operates *in personam* between the plaintiff and the defendant – 3rd respondent. Obviously, it will not be binding on the respondents 1 & 2. Such being the position of law, the presence of the respondents 1 & 2 is not necessary.

15.In the light of the above discussion, I am unable to sustain the order dated 12.11.2024 in I.A.No.3 of 2023 in O.S.No.276 of 2023 passed by the learned Additional District Munsif, Poonamallee.

16.Accordingly, this Civil Revision Petition is allowed. The order dated 12.11.2024 in I.A.No.3 of 2023 in O.S.No.276 of 2023 passed by the learned Additional District Munsif, Poonamallee, is set aside. Consequently, the connected Miscellaneous Petition is closed. No costs.

27.01.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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To

The Additional District Munsif,
Poonamallee.



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V.LAKSHMINARAYANAN, J.

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