



C.R..P.(PD)(MD).No.733 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.733 of 2024

and

C.M.P(MD) No.3847 of 2024

1. Palanisamy

2. Palaniyayi

3. Pappammal

... Petitioners/
Petitioners/ Proposed
Defendants 7 to 9

Vs.

1. Gopal Konar

2. Rasu

... Respondents 1 and 2/
Respondents 1 and 2/
Plaintiffs

Pitchai Konar died

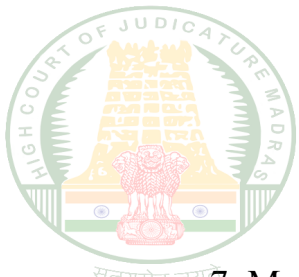
3. Chinnappa

4. Gopal Konar

5. Natarajan

6. Kamatchi

... Respondents 3 to 6/
Respondents 3 to 7/
Defendants



7. Muthukkannu
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... 7th Respondent/
8th Respondent/
8th Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the order passed in I.A.No.368 of 2023 in O.S.No.152 of 2019 on the file of the learned District Munsif-cum-Judicial Magistrate, Illuppur, dated 11.12.2023 and set aside the same and allow the revision petition and permit the petitioners to get impleaded in the above suit.

For Petitioners : Mr.B.S.Manjunath

ORDER

The third parties to O.S.No.152 of 2019 on the file of the District Munsif Court-cum- Judicial Magistrate, Illuppur, have filed the present Civil Revision Petition, challenging the dismissal of their application to get themselves impleaded in the suit.

2. A perusal of the plaint averments reveal that the said suit has been filed for the relief of declaration of title and permanent injunction. In the written statement the defendants have taken a defence that, apart from the plaintiffs there are two other brothers and sister in the family and unless they are impleaded in the suit, the prayer for declaration of title and permanent injunction is not maintainable.

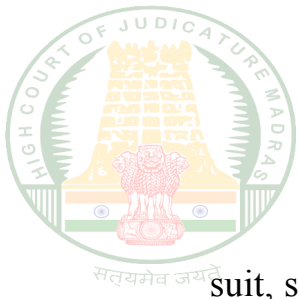


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3. This has prompted the other two brothers and sister to file I.A.No. 368 of 2023 to get themselves impleaded as the defendants in the said suit. The trial Court has dismissed the said application on the ground that the proposed parties themselves have admitted in their impleading petition that they are not making any claim over the property. In fact, they have already relinquished their share in favour of the original plaintiffs. In such circumstances, the presence of the proposed parties is not necessary for adjudicating the claim in the suit. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioners, since a defence has been taken by the defendants that due to non impleading of two brothers and a sister of the plaintiffs, the suit is bad for non-joinder of necessary parties, in order to protect their rights of the plaintiffs they wanted to get themselves impleaded in the suit. It is further admitted that they have already relinquished their share in favour of the plaintiffs and they are not making any claim over the suit schedule property. In such circumstances, they shall be impleaded as a formal defendants to the



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suit, so that, the defendants cannot contend that the suit is bad for non joinder of necessary party.

5. Heard the learned counsel appearing for the revision petitioners and perused the material records.

6. It is the admitted case of the proposed parties that they have already relinquished their share in favour of the plaintiffs in the suit. Therefore, merely because of a defence was taken by the defendants that the suit is bad for non-joinder of necessary parties, that will not affect the case of the plaintiffs. The trial Court has recorded a finding that the proposed parties are not necessary parties, in view of the fact that they have already relinquished their share in favor of the plaintiffs in the suit. In such circumstances, the proposed parties are not necessary parties to the suit and the trial Court has rightly dismissed the application and there are no merits in this Civil Revision Petition.



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7. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

04.03.2025

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

1. The District Munsif-cum- Judicial Magistrate,
Illuppur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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