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C.R.P.No.604 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2026

CORAM

THE HONOURABLE Mr. JUSTICE K. RAJASEKAR

Civil Revision Petition No.604 of 2023
and
Civil Miscellaneous Petition No.4852 of 2023

1. Palanisamy
2. Maheswari

... Petitioners/Defendants

Vs.

1. Divya
2. Assistant Divisional Engineer,
High Ways Department,
Bhavani Division,
Bhavani Taluk,
Erode District.

... 1st Respondent/Plaintiff

... 2nd Respondent/3rd Party

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to set aside the Fair and Final Order dated 14.11.2022 in I.A.No.3 of 2022 in O.S.No.145 of 2021 on the file of the District Munsif Bhavani, Erode District by allowing this Civil Revision Petition.

For Petitioners : Mr.S.Lakshmanasamy

For Respondents : No appearance

ORDER



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This Civil Revision Petition has been filed challenging the order dated 14.11.2022 passed in I.A.No.3 of 2022 in O.S.No.145 of 2021 on the file of the District Munsif, Bhavani, Erode District, wherein the Trial Court allowed the impleadment of the proposed party as the third defendant in the suit.

2.The Defendants No.1 and 2 have filed the present Revision Petition seeking to set aside the order of impleadment on the ground that the third defendant is not a necessary party to decide the issues involved in the suit.

3.According to the petitioners, the plaintiff has encroached upon a portion of the property belonging to defendants No.1 and 2 and constructed a shop thereon. Hence, they have raised objections to the plaintiff's enjoyment of the encroached portion of the property. According to them, the plaintiff has filed the suit with false averments that the defendant Nos.1 and 2 are preventing her enjoyment of the land purchased by her. The petitioners contend that since the plaintiff has encroached upon the land belonging to defendant Nos.1 and 2, they are entitled to prevent her from entering the land. The suit has also been filed only for injunction against the defendant Nos.1 and 2. Hence, impleading the third defendant is unnecessary and has been done only to delay the proceedings. Hence, he prays to set aside the order of impleadment passed by the Trial Court.



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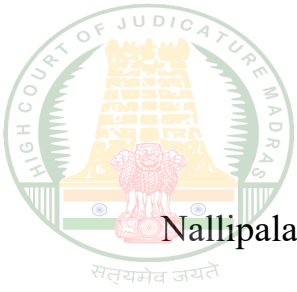
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4. At the time of admission, this Court ordered notice to the respondents. Though notices were served on both R1 and R2 i.e., the plaintiff and the proposed party, none have appeared and they have not chosen to contest the petition.

5. I have heard the learned counsel for the petitioners and perused the materials available on record.

6. On careful perusal of the pleadings, it revealed that the plaintiff has come forward with the suit for Permanent Injunction injunctioning the defendants 1 and 2 to prevent her from enjoying the property purchased by her to the extent of 2,500 sq.ft., land. Further, it is pleaded that she had taken steps to construct a house and it was objected by the defendants 1 and 2 hence she had come forward with the suit for declaration and consequential injunction.

7. There is no averment or allegation against the proposed party, who is a Statutory Authority under the National Highways Act. It is stated in the Impleadment Petition that the first defendant in the suit had submitted an application to the proposed party, alleging that there was an encroachment on the road. Hence, the proposed party conducted an enquiry and reported that the



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Nallipalayam to Jambai Road is situated adjacent to the land of the plaintiff, and the proposed party objected to the release of sewage water onto the road and directed her to remove the sewage pipe line. Hence, it is claimed that he is a necessary party to the suit.

8.I am of the view that the allegation of letting the sewage water in the road, which is a National Highway, constitutes a separate cause of action and is to be agitated by the plaintiff by way of separate proceedings and shall not be clubbed with this suit. Further, in the counter filed by the proposed party, he has only stated that he received a representation from the parties regarding an encroachment in the Highway. Hence, he conducted an enquiry, thereafter advised the parties not to encroach the road and not to let any sewage water onto the road.

8.In the background of the aforesaid allegations and facts, I am of the view that the third respondent is not a necessary party to decide the issue involved in this case, namely, the alleged objection raised by the defendant Nos.1 and 2 with regard to the enjoyment of the land purchased by the plaintiff herein.

9.In such circumstances, the order passed by the Trial Court impleading the proposed party as third respondent is not sustainable. Accordingly, the same is set



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aside. The Civil Revision Petition is allowed. There shall be no order as to costs.

Consequently, the connected miscellaneous petition stands closed.

02.06.2026

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

To

1. The District Munsif,
Bhavani, Erode District.

K.RAJASEKAR, J.

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