

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CHIDAMBARAM**PRESENT: Tmt. S.SUGANIYA SRI B.A.B.L (Hons), M.L., PGDAML****ADDITIONAL DISTRICT MUNSIF, CHIDAMBARAM****TUESDAY, THE 6TH DAY OF APRIL 2023****IA.NO. 405/2022 IN OS.NO.235/2013**

Swaminathan

..... Petitioner/ Plaintiff

/Vs/

1. Ramalinga Mudaliar (died)
2. Chandrasekara Mudaliar(died)
3. Parvathavarthini
4. Balakumar
5. Narayanakumar
6. Gurunathan
7. Jeevanandham
8. Sub-Registrar, Bhuvanagiri
9. Suryamoorthy
10. Manimegalai
11. Jayavel
12. Gnanavel
13. Thenappan
14. Vijayalakshmi
15. Somasundaram
16. Surendar
17. The Tahsildar,
Chidambaram Taluk.
18. The State of Tamil Nadu represented
By its Collecotor, Cuddalore District.
19. The Tahsildar,
Bhuvanagiri Taluk.

....Respondent/1 to 16 Defendants/
Proposed paries

For Petitioner	Thiru.A.Sambandam, Advocate
Respondents 1,2, 3, 4, 5, 10, 13, 14, 15, 16	Endorsed "No counter"
Respondents 17, 18, 19	Exparte in the petition for Non-filing of Counter
Respondents 6, 9	Thiru.D.Mahesh, Advocate.
Respondents 7, 8, 11, 12	Exparte in the suit.

Relief Claimed	Petition filed under Order 1 Rule 10(2) & Section 151 of CPC to implead 17, 18, 19 respondents in the suit as defendants.
Final Hearing	21.3.2023

Upon hearing the arguments of both sides Learned counsels and on perusal of the entire records and having stood over for consideration till this day, this court delivers the following

ORDER

The case of petitioner

1. The petitioners are the plaintiff and respondents 1 to 16 are defendants in the suit. The suit is filed for the relief of declaring the plaintiff's title to the Item No. 1 to 6 of the suit property and permanent injunction restraining the defendants from interfering with the peaceful possession of the item 1, 2 and 4 of the suit property, and recovery of possession with regard to item 3,5,6 and for other reliefs. The 17 to 19 respondents are to be impleaded in the suit. The suit in OS. NO. 103/2013 was filed by the plaintiff against the 17 to 19 proposed parties of this petition and other defendants for canceling the entries in Patta No. 545, 591, 454 and to restore the entries as it stood before sub-division as Patta.No. 171 and 68. The plaintiff has filed petition for an order of joint trial to try this suit along with OS.No.103/2013. The proposed parties are already one of the defendants in OS.No.103/2013. Therefore, the proposed parties are necessary party to this suit and their presence is must in suit. Only if the proposed parties are impleaded in original suit, the joint trial can be conducted. Their absence in the suit came to the knowledge of petitioner only when the suit was posted for trial. If proposed parties are not added, then the petitioner will be put to irreparable loss and injury.

The case of the respondents:

2. The respondent vehemently oppose the petition filed by the petitioner and put the petitioner to the strict proof of the same. The suit is of the year 2013 and this petition is filed belatedly only with the intention to drag on the suit proceedings. There are no reasonable grounds stated by the petitioner to implead the proposed parties in the suit. Therefore, the respondents pray for the dismissal of this petition.

3. Now the point for consideration is whether the petitioner is entitled to get the reliefs as prayed for?

4. On the side of petitioner and respondent, no oral and documentary evidence was let in.

Points For Consideration:

5. Heard the learned counsel for petitioner. Material records perused. This is the petition filed under Order 1 Rule 10 of CPC to implead the 17, 18, 19 respondents as defendants in the suit. There is an order of joint trial to try this suit along with the suit in OS.NO.103 /2013. On perusal of records, it is seen that the proposed party is already the 1, 2, 3 defendants in OS.NO.103 /2013. Looking on to the legal aspects of Order 1 Rule 10 of CPC, the necessary party means the party without whom they cannot be an effective adjudication in the suit.

6. Furthermore, the test to be applied while determining the right of a party to implead another, in a pending suit is as follows,

- a) If without his presence no effective and complete adjudication could be made;
- b) If his presence is necessary for a complete and effectual adjudication of the dispute though no relief is claimed against him;
- c) If there is a cause of action against him;
- d) If the relief sought in the suit or other proceedings is likely to be made binding on him;
- e) If the ultimate outcome of the proceedings is likely to affect him adversely;
- f) If his role is really that of a necessary witness but is sought to be camouflaged as a necessary party;

7. According to this court, the proposed parties are necessary parties to the suit as the relief of mandatory injunction in OS.NO.103 /2013 itself is sought against the proposed parties. The proposed parties were set exparte for non-filing of counter. When there is an order of joint trial to try this suit along with OS.NO.103 /2013, for the complete adjudication in both the suits, this court is inclined to allow this petition and without him there cannot be effective adjudication in suit.

In the result, this petition is allowed. No costs.

Dictated to the steno-typist, transcribed by her and typed in computer, corrected and pronounced by me in the open court this the 6th day of April 2023.

(Sd/- S.Suganiya Sri)
Additional District Munsif,
Chidambaram.

List of witnesses and documents on the side of the petitioners:

NIL

List of witnesses and documents on the side of the respondents:

NIL

(Sd/- S.Suganiya Sri)
Additional District Munsif,
Chidambaram.