

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V.Devapriya, B.Sc., M.L.,
District Munsif, Madurantakam
Monday, the 22nd day of July, 2024
I.A.No.4/2022
in
O.S.No.35/2022

K.Nandagopal

...Petitioner/Proposed 4th Defendant

Vs.

1. Santhanakumar

...1st Respondent/Plaintiff

2. The Thasildar, Madurantakam

3. The Revenue Divisional Officer,
Madurantakam

4. The District Collector, Chengalpattu

...Respondents 2 to 4/Defendants

This petition coming up before me on 15.07.2024 for final hearing in the presence of, Thiruvallargal.U.Vasudevan, T.Balu, S.Jeyakumar, V.Mohanraj and B.Janani, counsels for Petitioner/Proposed 4th Defendant and Thiruvallargal. S.Subramanian, P.Praveenkumar and A.Abdulhyath, counsels for 1stRespondent/Plaintiff and Thiru.V.Ranganathan, pleader doing Government work, for Respondents 2 to 4/Defendants and after hearing the arguments on both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioner/Proposed 4th Defendant under Order I Rule 10 of the Code of Civil Procedure, to implead the

Petitioner/Proposed 4th Defendant in the above case as 4th Defendant.

2.The averments stated in the petition in brief :

The 1st Respondent/Plaintiff had filed the above vexatious suit against the Respondents 2 to 4/Defendants for permanent injunction restraining them from interfering in his possession in the suit property. The 1st Respondent/Plaintiff had claimed that the suit property is his ancestral property and that in the revenue records, it was wrongly entered as Anatheenam. The suit S.No.31 is classified as Anatheenam in the 'A' register. The 1st Respondent/Plaintiff, who claims that the entries in the revenue records is wrong, had not given any representations to the revenue officials to rectify the entries. The 1st Respondent/Plaintiff is in the habit of grabbing the inam lands by misusing his official capacity as Village Administrative Officer and had illegally occupied the suit property.

3. The 1st Respondent/Plaintiff had filed the above suit and he is attempting to obtain exparte decree of permanent injunction in order to manipulate the revenue records. The 1st Respondent/Plaintiff had already filed a suit in O.S.No.10/2018 before the Hon'ble Sub Court, Madurantakam for S.No.56, which is classified as Punja Inam Samuthaya Pulam and had obtained an exparte judgment in the said suit. The 1st Respondent/Plaintiff is misusing his official power and he is making use of this court as tool to grab the inam lands.

4. The Petitioner/Proposed 4th Defendant is in possession and enjoyment of the land in S.Nos.13/5,13/6A,13/6B,28/7 and 28/9 and he is cultivating the said

lands. The Petitioner/Proposed 4th Defendant is using the lands in S.Nos.31/4,31/1,31/2,30/5,27/2 and 26/1 to reach his lands and to take all the agricultural produces,irrigating vehicles etc. There is no other way for the Petitioner/Proposed 4th Defendant to reach his lands, to cultivate in his lands. Besides the Petitioner/Proposed 4th Defendant, the villagers are also using those lands to have access to their respective agricultural lands. The common ground, where all the agricultural produce are gathered, is also situated ahead of lands in S.No.31.

5. The Petitioner/Proposed 4th Defendant and the entire villagers are using the lands in S.No.31 as common way, since it is Anatheenam lands. The 1st Respondent/Plaintiff cannot claim the same as his absolute property. The 1st Respondent/Plaintiff is a habitual land grabber and therefore the Petitioner /Proposed 4th Defendant lodged complaint before this court and all other departments. Unless and until the Petitioner/Proposed 4th Defendant is added as a party in the above suit, the above facts cannot be brought before this court and the Petitioner/Proposed 4th Defendant will also lose access to the reach common ground and his lands. Therefore the Petitioner/Proposed 4th Defendant is necessary party in the above suit. Hence the Petition.

6. The averments stated in the counter filed by the 1st Respondent/Plaintiff, in brief:

This petition is not maintainable in law and on facts. The suit property is

the ancestral property of the 1st Respondent/Plaintiff. During re-survey, patta has not been granted and it has been wrongly classified as Anatheenam. Therefore the 1st Respondent/Plaintiff had filed the above suit to safeguard his property. The suit in O.S.No.10/2018 was rightly decreed. The Petitioner/Proposed 4th Defendant is not in possession of the alleged lands and the Petitioner/Proposed 4th Defendant is not using the S.No.31 to reach his lands. The documents, filed by Petitioner/Proposed 4th Defendant, is not related to the suit property and the Petitioner/Proposed 4th Defendant is no way related to the suit property. The Petitioner/Proposed 4th Defendant had filed this petition due to the enmity between him and the 1st Respondent/Plaintiff. There is no merits in this petition. Hence this petition is liable to be dismissed with costs.

7. The averments stated in the counter filed by the 2nd Respondent/1st Defendant and adopted by Respondents 3 and 4/Defendants 2 and 3, in brief :

This petition is not maintainable in law and on facts. The allegations in the affidavit, are false. If the Petitioner/Proposed 4th Defendant is having any interest in the suit property, he has to file separate suit. There is no merits in this petition. Hence this petition is liable to be dismissed with costs.

8. The point for determination is whether this petition is to be allowed or not?

9. On the side of the Petitioner/Proposed 4th Defendant, Exhibits P-1 to P-8 were marked and on the side of the Respondents/Defendants, Exhibits R-1 and

R-2 were marked and no witnesses were examined on both sides.

10. Heard both sides and perused the records.

11. The Petitioner/Proposed 4th Defendant had filed this petition to implead himself in the above suit, on the ground that since he owns lands adjacent to the suit property, he is the necessary party to the above suit. The Respondents resisted the petition stating that the Petitioner/Proposed 4th Defendant is not necessary party to decide the issue in the above suit.

12. The Petitioner/Proposed 4th Defendant had stated that he is owning lands in S.Nos. 13/5, 13/6A, 13/6B, 28/7 and 28/9 in the suit village and that the suit survey number is used as common way by himself and village people, to reach their respective lands. The Exhibit P-6 shows that the father of the Petitioner/Proposed 4th Defendant owns lands in the suit village. In Exhibit P-2 also, the Petitioner/Proposed 4th Defendant had stated the same facts. The Petitioner/Proposed 4th Defendant further stated that the 1st Respondent/Plaintiff is in the habit of filing vexatious suits and are grabbing the properties and therefore in order to bring the above fact into light, he is necessary party in the above suit.

13. The learned counsel for the 1st Respondent/Plaintiff had filed a judgement in the case of *Antony Devaraj and another vs. Aralvaimozhi (Kurusadi) Devasahayam Mount Dor and Thuya Viagula, Annai Church, Represented by the Trustee and others [(2004) 2 MLJ 111]*, wherein the Hon'ble High Court of

Madras had consolidated the guidelines laid down by the Hon'ble High Courts and the Supreme Court, to invoke Order I Rule 10(2) of Code of Civil Procedure and had observed that a person is not to be added as a defendant merely because he or she would be incidentally affected by the judgement and that the main consideration is whether or not the presence of such person is necessary to enable the court to effectually and completely adjudicate upon and settle the questions involved in the suit.

14. In another judgement filed by the learned counsel for the 1st Respondent/Plaintiff, in the case of *S. Ramaswamy and others vs. The State of Tamil Nadu, Rep. by its Collector, Kanyakumari District at Nagercoil and another [(1999) 2 MLJ 690]*, referring to the judgement in *Bannarsi Dass Durga Prashad vs. Panna Lal Ram Richhpa Oswal and others [AIR 1969 P&H 57]*, the Hon'ble High Court of Madras, observed that even if a person may be incidentally affected by the judgement, he need not be a party.

15. In present case, the Petitioner/Proposed 4th Defendant seeks to be impleaded in the above suit on the ground that if a judgement is passed in favour of the 1st Respondent/Plaintiff by granting permanent injunction in respect of the suit property, he cannot use the same as way to reach his own lands. The Petitioner/Proposed 4th Defendant does not claim any title over the suit property. Thus, the contention of the Petitioner/Proposed 4th Defendant is that he will be incidentally affected by the judgement passed in the above suit. Therefore, as

per the guidelines observed in the above judgements, even though the Petitioner/Proposed 4th Defendant is incidentally affected by the judgement, he cannot be added as party to the above suit.

16. The 1st Respondent/Plaintiff had filed the above suit alleging that the Respondents 2 to 4/Defendants is attempting to interfere his possession in the suit property. The question of 1st Respondent/Plaintiff's alleged possession in the suit property and the alleged interference caused by the Respondents 2 to 4/Defendants, can be decided even in the absence of the Petitioner/Proposed 4th Defendant. Therefore, the Petitioner/Proposed 4th Defendant is neither a necessary party nor proper party in the above suit. Hence for the foregoing reasons, this court is not inclined to allow this petition.

17. In the result, this petition is dismissed. No costs.

Partly dictated to the Stenographer, transcribed and typed by him and partly typed by me in my laptop and corrected and pronounced by me in open court on this the 22nd day of July, 2024

District Munsif
Madurantakam

Petitioner side witnesses :

Nil

Petitioner side Documents :

Ex.P-1 Certified copy of Judgment and Decree passed in O.S.No.10/2018
on the file of Hon'ble Sub Court, Madurantakam dated 30.10.2018

- Ex.P-2 Petition given to District Collector, Chengalpattu dated 20.11.2021
- Ex.P-3 Certified copy of partition deed dated 30.03.1938
- Ex.P-4 Copy of Judgment and Decree passed in O.S.No.10/2018 on the file of Hon'ble Sub Court, Madurantakam dated 30.10.2018
- Ex.P-5 Certified copy of settlement deed dated 27.12.1965
- Ex.P-6 Photos (3 Nos.) with CD
- Ex.P-7 Letter of Public Information Officer, P.A to District Collector (General), Kancheepuram dated 18.05.2015
- Ex.P-8 Letter of public Information Officer, P.A to District Collector (General), Kancheepuram dated 25.04.2018

Respondents side witnesses :

NIL

Respondents side documents :

- Ex.R-1 Certified copy of Settlement Land Register extract
- Ex.R-2 Kist receipts (7 Nos.)

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