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IN THE COURT OF ADDITIONAL DISTRICT MUNSIF,
PADMANABHAPURAM.

Present: **Selvi.V.Viswatha, B.A.,LL.B(Hons),LL.M.,**
Additional District Munsif.

Thursday the 15th day of April 2021
I.A No.6 of 2020 in O.S No.58 of 2019

1. Suman Gnanadhas.
2. Rajam.
3. Subala.

.. Petitioners/ third parties..

/ Vs. /

1. Varkees.
2. Sureshkumar.
3. Jeevarajan.
4. John Rose.

..Respondents/Plaintiffs & Defendant..

This petition is presented before me for final hearing, in presence of Thiru.S.Alwinvethamoni, learned counsel for the Petitioners and Thiru.T.Rajaiyan, learned counsel for the respondents 1 to 3/plaintiffs. Upon hearing the counsel on both side and on perusal of the records stood over for consideration till this day, this court passed the following

ORDER

This petition is filed under Order I Rule 10(2) and Section 151 of Civil Procedure Code to implead the petitioners as Additional defendants 2 to 4 in the suit.

2. Brief of petition facts is as follows:-

The petitioners herein are the third parties. It is stated that the plaintiff has filed this suit in the representative capacity representing the residents of Samivilai hamlet seeking declaratory right of pathway over the B schedule property. The petitioner states that they are the permanent residents of

Samivilai hamlet who are using the plaint B schedule property as a public pathway for ingress and egress to their respective house. The petitioner states that B schedule property is continuously and uninterruptedly used as a pathway more than 50 years. It is stated that the residents of the locality are also using the said pathway for taking water from the panchayat well for drinking and other domestic purpose. It is also stated that the suit B schedule property is easiest to reach Anganwadi. It is also stated the telephone and electric posts are also available in the B schedule property. It is stated that the fourth respondent has no independent or individual right over the B schedule property. It is stated that the fourth respondent/defendant is attempting to close the said pathway by making constructions in the B schedule property. It is also stated that if any construction is made in the B schedule property the house of the petitioner will become useless. Hence this petition is filed to implead the petitioners herein as the Additional defendants 2 to 4 in the suit

3. The respondents 1 to 3/plaintiffs appeared and has stated as no counter.

4. Heard the counsel on both sides and perused the records stood over for consideration.

5. Now the point for consideration is whether the petition is liable to be allowed or not?

6. The plaintiffs/respondents 1 to 3 has filed the suit in representative capacity seeking declaratory right of pathway over the B schedule property. The petitioners/third parties states that they are permanent residents of Samivilai hamlet they are using the B schedule property as a public pathway. It is stated that the petitioners are using the B schedule property as a pathway for more than 50 years. It is also stated that fourth respondent has no manner of right over the B schedule property. It is also stated that the fourth respondent has attempted to close the B schedule pathway by making constructions in the B

schedule property. The petitioners also states that if any construction is made in the B schedule property the properties of the petitioners will become useless as it will become land locked.

7. With this background , in this petition the point to be decided is, whether the proposed additional defendants are entitled to be impleaded in the suit or not.

8. The petitioners/third parties are the permanent residents near the B schedule property and it is to be noted that suit is filed in the representative capacity under Order 1 Rule 8 of Civil Procedure Code. It is a settled principle in law that in a suit filed under representative capacity when other persons are interested to get impleaded they shall be impleaded as additional plaintiffs/defendants and in this case the petitioners/third parties being residents near plaint B schedule property, they have direct and substantial interest in the subject matter of the suit. Hence this court decides to allow this petition to implead the proposed petitioners as additional defendants 2 to 4 in the suit.

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

Dictated to the Steno-Typist directly, typed by her in computer, corrected and pronounced by me in open court, on this 15th day of April 2021.

Additional District Munsif,
Padmanabhapuram.

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ADMC Padmanabhapuram.

IA.No.6/2020 in OS.No.58/2019.

Draft/Fair Order:

Dt: 15.04.2021.