

**IN THE COURT OF THE DISTRICT MUNSIF,
ERANIEL.**

Present: Thiru. M. Senthil Kumar, B.A.,B.L.,

District Munsif, Eraniel.

Tuesday the 10th day of August 2021

I.A.No.2/2019

IN

I.A.No.236/2018

AND

O.S. No.71/2017

Sajeeth

.... Petitioner/Proposed
addl. 9th defendant

Vs.

1. Faith in Action Ministries India Trust

Rep. by John Vargese

2. Rajan

3. Saraswathy

4. Ravi

5. Sundaram

6. The Revenue Divisional Officer

Padmanabhapuram

**..... Respondents/Plaintiff and defendants,
Proposed addl. 9th defendant**

Sri. Adv. Government Pleader, For the Petitioner/Proposed addl. 9th
defendant

Sri. Adv. Mr. A. Vimalan, For the Respondents/Plaintiff and
defendants, Proposed addl. 9th defendant

This petition is coming before me for final hearing on 09.04.2021 and upon hearing the arguments on both side and having stood over for consideration till this day, this court delivered the following order :

ORDER

1. I.A.No.2/2019 is an application under Section 151 of the CPC praying for a relief to delete the name of the 9th defendant and to the arrayed as a party in the official capacity Tahsildar, Kalkulam Taluk. Infact in this application for petitioner has given a elaborate explanation purporting to the several Government Orders regarding religious institutions and also regarding usage of mike and loud speaker at worship place.

2. The Averments of the petition in brief :

This petitioner has given details about several Government Orders. Which are very much related to law and order, Tamil Nadu Panchayat building rules, Tamil Nadu District Municipality building rules and also Government Orders regarding common orders related to religious activities. As a Government official in the capacity as Tahsildar,

Kalkulam Taluk. He has shown of the Government Orders and the government stand regarding the suit filed by the plaintiffs. Now the only grievance of the petitioner / 9th respondent is that let he not called in his personal capacity. Rather at the relevant by of time, he is holding the official post as Tahsildar, Kalkulam Taluk.

3. Counter affidavit filed by the respondent :

The respondent / plaintiff denied the allegation raised by the petitioner/respondent and in addition to that the plaintiff would state that for conducting prayer meeting the plaintiff had taken the matter with the Hon'ble High Court of Madras at Madurai Bench and have obtained order for conducting prayer meeting while the order was in force it is the petitioner / 9th respondent herein threatened the plaintiff by misusing his powers.

4. It is also strongly objected by the respondent/plaintiff that if the name of the petitioner is removed then he may shift his responsibility on Revenue Divisional Officer and escape from the clutches of law. Hence the respondent / plaintiff emphasis that the petition has be dismissed.

5. The learned Government Pleader emphasized that in a government department men may come and go the official post remains the same if the plaintiff is making claim against the government then the defendants must be added as parties only in their official capacity and no

individual can be made as a party in a matter relating to government dispute.

6. The learned counsel for the respondent/plaintiff contented the plaintiff while filing the suit it had a clear mind that the petitioner / respondent Sajeeth has to be necessary made as a party since he was the main trouble maker to the plaintiff in conducting the prayer meeting. Hence as a dominus litus the plaintiff entitled to make an individual as a party to the proceedings.

7. Heard both and their rival submissions.

8. This court while considering this application had perused the entire regards and the core subject matter of the suit is that the plaintiff while conducting the prayer meeting creates a noise pollution in the locality and that was restrained by the government official which led to filing of a writ before the Hon'ble High Court as well as filing a suit before this court. While the plaintiff had filed the main suit he has made four individuals as defendants subsequent to that the plaintiff has filed an impleading application in I.A.No.236/2018 praying for a relief to implead the present petitioner Sajeeth who was the then Tahsildar, Kalkulam Taluk as a proposed party to the main suit. Still the impleading application I.A.No.236/2018 is pending for enquiry meanwhile

the petitioner deliberately has now come with application to erase his name and implead the Tahsildar, Kalkulam Taluk in the official capacity. Now the points to be determined in this application is that where the Tahsildar, Kalkulam Taluk can be represented by an individual.

9. The petitioner initially has filed suit as against four individuals seeking a relief permanent injunction. Now after certain development the plaintiff also impleaded the Tahsildar, Kalkulam Taluk the deputy Superintendent of Police, Thuckalay divisions and police official the anti land grabbing wing the plaintiff who is the respondent in this application was well aware of the law and order restriction laid down by our Hon'ble High Court for use of loud speakers in religious meetings. In Re Sakuthala /Vs/ State of Tamil Nadu in WP N0. 301/2002. The Hon'ble High Court was pleased of set guide lines regarding the usage of loud speakers at religious festival, and meeting. Further the Hon'ble High Court went upon giving guidelines to the government to authorise revenue official and police official for strictly implementing noise pollution regulation and control rules 2000 for controlling the noise pollution. In this aspect both revenue authority and police authority where directed by the government to keep a check for controlling the noise pollution. While the position of the law regarding this subject is settled the plaintiff/respondent should have made the government as atleast as formal parties in the main suit though the relief sought is for permanent injunction. Subsequent to the inception of the suit and on

certain grounds the plaintiff wants to implead the government authorities as parties to the proceedings.

10. That can be appreciated when they are made as parties in their official capacity. If the plaintiff is really having grievance on one individual who is holding a official post then he should have added as party in his individual capacity as well as the separately in his official capacity. The application filed by the plaintiff/respondent in I.A.No.236/2018 reads Sajeeth as in his official capacity as Tahsildar, Kalkulam Taluk. If the plaintiff had suffered civil injury, Then Sajeeth personally can be made as party in his personal capacity. If it is by the act of the individual while discharging the official duty, then the particular individual can be impleaded as in his individual capacity and claim can be made against making averments regarding the misuse of authority. While perusing the I.A.No.236/2018 the short cause title, the petition reads Sajeeth in his individual capacity. But the long cause title reads as Tahsildar, Kalkulam Taluk. Thuckalay. At the same time the revenue divisional officer has been made as party only in the official capacity.

11. Hence while impleading the government authorities there cannot be any disparity. The plaintiff is entitled to implead the individual Sajeeth in his individual capacity which the provisions of law enables the plaintiff to do so. The petition I.A.No.236/2018 itself lacks clarity when

short cause title reads as proposed parties in the individual capacity and long cause title reads as Sajeeth Tahsildar, Kalkulam Taluk. The petition filed by the proposed party 9th defendant in their affidavit pray for the dismissal of the I.A. But the petition reads praying for a order to delete the personal name of the petitioner / proposed 9th additional defendants. It is rudimentary principle that reasons assigned in the affidavit shall correspond to the prayer sought in the petition.

12. By the fair appraisal of both the petition in I.A.No.2/2019 and counter affidavit filed by the petitioner this court comes to the conclusion that the impleading petition filed by the petitioner mentioning the name of the 9th respondent in his official capacity cannot sustain for the reasons that the said individual can be impleaded as a party in his individual capacity. As such the name in the interlocutory application Sajeeth shall remain at the same time only in his individual capacity and in cose this court directs the respondent/plaintiff to strike out the official capacity. following them with name of the petitioner Sajeeth. It is pertinent to note that even in the affidavit filed by the petitioner. It is found that the petitioner has sworned in his official capacity and made detail counter statements. Hence if at all the plaintiff is having grievances liberty is granted to the respondent/plaintiff to add the Tahsildar, Kalkulam Taluk in their official capacity.

13. Result :

In the result, I.A.No.2/2019 is disposed with a direction to the respondent/plaintiff strike out the long cause title following the name of Sajeeth Tahsildar, Kalkulam Taluk and amend the application making Sajeeth as a party in his individual capacity. No cost.

Dictated to the Steno-typist, transcribed by her, corrected and pronounced by me in open court this the 10th day of August 2021.

Sd/-
District Munsif ,
Eraniel.

- 1. Plaintiff side witness :** Nil
- 2. Plaintiff side Exhibits :** Nil
- 3. Defendants side witness :** Nil
- 4. Defendants side Exhibits :** Nil

Sd/-
D.M.

Draft/Fair Order

I.A.No.2/2019
in
I.A.No.236/2018
And
O.S.No.71/2017
D.M., Eraniel.
Dated : 10.08.2021.