

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF AT
KANCHEEPURAM**

PRESENT: TMT.R. Rajeswari,B.Com.,L.L.M.,
Additional District Munsif, Kancheepuram

On Thursday, this the 22nd day of August 2024

IA.No. 01/2023
in
O.S.No.150/2021

G.Arumugam

...Petitioner/Plaintiff

/Versus/

1. R. Sampath

...Respondent/Defendant

2. The President,

Reading Room and Tennis club,
Kancheepuram.

3. The Secretary,

Reading Room and Tennis club,
Kancheepuram.

.... Respondents/Proposed
defendants 2 and 3

This petition has come up on 14.08.2024 before me for final hearing in the presence of M/s. V. Tamilarasu, V. Thulasi, J. Karpagam, R. Rahul Gandhi, V. Praveen, M.K. Archana & R.Kamesh, advocates for the Petitioner and M/s. M. Nagaraj, J. Jagadeesh, K.P.Sivakumar & A. Murali, advocate for the 1st respondent and notice served to 2nd and 3rd respondent, 2nd and 3rd respondent not appeared before this Court and set exparte on 04.03.2024 and upon hearing the arguments and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:-

ORDER

1. The petition is filed under Order 1 Rule 10(2) of CPC to implead the respondents 2 and 3 in the above case.

2. **Brief Averments in the Petition:**

The petitioner submit that the petitioner had filed suit for ejectment against the 1st respondent/1st defendant. Originally the 2nd respondent had leased out the property and he collect the rent from the 1st defendant. After leased out the property the petitioner's mother and her sister had filed the suit for partition against the proposed defendants in O.S.No. 78 of 2010 and the same was decreed by the District Court II at Kancheepuram and the suit property was allotted to the petitioner's mother. That respondents 2 and 3 already filed the suit for extension of leased period of the suit property in O.S.No. 748 of 1999 against his mother and other co-sharer. After got the decree in O.S.No. 78 of 2010, the petitioner's mother has settled the suit property in his favour by way of registered settlement dated 28.03.2019. After got the property, the petitioner have issued a legal notice to 1st respondent to pay the rent, but he did not pay the rent amount and he also stated that the defendants 1 and 2 are collect the rent from the 1st defendant, hence the petitioner have filed the suit for recovery of the schedule mentioned property against the 1st defendant. During the pendency of the above suit the respondent 1 and 2 have compromised the suit in O.S.No. 748 of 1999 and they also accept to collect the rent from the tenant to himself. On based on the compromise the suit in O.S.No.748 of 1999 was

disposed by this Court on 10.07.2021. After deposed the suit now only received the certified copy of the decree. The respondents 2 and 3 have no objection to collect the rent from the 1st respondent. In these circumstances it is just and necessary to implead the proposed respondents 2 and 3 in the case. The petitioner submit that if the petition is not allowed then the petitioner will be put to much loss and hardship and which cannot be compensated in terms of anything. Hence this petition.

3. Brief facts in the Counter are as follows:-

The respondent submits that the above case filed by the petitioner against this respondent for recovery of possession of the schedule mentioned property and the same was posted on the list and in these circumstances, this petitioner has filed this petition to implead the proposed parties, i.e., the Secretary and the president of the RRTC and the averments of the petition states that this respondent was a tenant under the RRTC and based on the compromise between them, the RRTC has accept to collect the rents from this respondent and the same was disposed on 10.07.2021, whereas in the case filed by this petitioner against one of the tenant namely Mr.G.Ravikumar, pertaining to the same subject manner, which was pending before the Principle District Munsif Court of Kancheepuram in O.S.No. 145 of 2021 and in the above said case, the defendant Mr.G.Ravikumar has filed an application in IA.No. 1 of 2021 to implead the said secretary and the president of the RRTC, the petitioner has raised vahement objections to implead the said persons in the counter filed in

the above petition and based on the counter, the above application was dismissed on 04.08.2022 and moreover, it is pertinent to note that the petitioner has taken Dual stand in the same subject matter, therefore, by this virtue, the petitioner has filed this vexatious petition only with an intention to drag on the proceedings of the above case to proceed the case.

4. That since the petitioner has taken as stated that the secretary and the president of the RRTC is an unnecessary party to the suit in one case and in another case, the petitioner has taken different stand that the secretary and the president of the RRTC was a necessary party to this suit, which shows that the petitioner does not wants to proceed the case before this Court, which shows the Demeaner of the petitioner and the petitioner using this vextious petition as a shield to protect him from deposing the evidence before this Court and even if the petitioner having a good case on merits, then what is the impediment to the petitioner to get down the case by way of deposing evidence and by this virtue, it clearly shows that the petitioner has filed this frivolous petition only with an intention to drag on the proceedings of the case.
5. That at the outset the present application to implead the proposed parties is highly belated and nothing but a delay in tactics. The allegation that the proposed parties compromised the suit in O.S.No. 748 of 1999 thereby accepted to collect the rent by the petitioner and the suit was disposed on 10.07.2021 and that the petitioner now only received the certified copy of the decree and that the respondents 2 and 3 have no objection to collect the rent

from this respondent are all strange and untenable and there is no whisper in the plaint about the suit in O.S.No. 748 of 1999 and compromise and it is more pivotal to note that there is no reason stated in the petition that why the proposed parties were not been added as defendants at the initiation of this suit itself and moreover, having failed to frame the suit in proper manner to fill up the Locuna, the present application is filed as an afterthought. The respondent submits that there is no merits lies in allowing this application but unnecessary delay will be caused and this respondent reserves his right to file any additional counter or additional documents in future as advised. All the other allegations are hereby denied. Hence the petition may be dismissed with cost.

6. Point for determination:-

Whether the petitioner is entitled to the relief as claimed by him or not?

7. The point:

The petitioner counsel argued that the petitioner had filed suit for ejectment against the 1st respondent/1st defendant. Originally the 2nd respondent had leased out the property and he collect the rent from the 1st defendant. After leased out the property the petitioner's mother and her sister had filed the suit for partition against the proposed defendants in O.S.No. 78 of 2010 and the same was decreed by the District Court II at Kancheepuram and the suit property was allotted to the petitioner's mother. That respondents 2 and 3 already filed the suit for extension of leased period of the suit property in O.S.No. 748 of 1999 against his mother and other co-sharer. After got the

decree in O.S.No. 78 of 2010, the petitioner's mother has settled the suit property in his favour by way of registered settlement dated 28.03.2019. After got the property, the petitioner have issued a legal notice to 1st respondent to pay the rent, but he did not pay the rent amount and he also stated that the defendants 1 and 2 are collect the rent from the 1st defendant, hence the petitioner have filed the suit for recovery of the schedule mentioned property against the 1st defendant. During the pendency of the above suit the respondent 1 and 2 have compromised the suit in O.S.No. 748 of 1999 and they also accept to collect the rent from the tenant to himself. On based on the compromise the suit in O.S.No.748 of 1999 was disposed by this Court on 10.07.2021. After deposed the suit now only received the certified copy of the decree. The respondents 2 and 3 have no objection to collect the rent from the 1st respondent. In these circumstances it is just and necessary to implead the proposed respondents 2 and 3 in the case. The petitioner submit that if the petition is not allowed then the petitioner will be put to much loss and hardship and which cannot be compensated in terms of anything. Hence, the petitioner counsel prayed to allow this petition.

8. The respondent counsel argued that the above case filed by the petitioner against this respondent for recovery of possession of the schedule mentioned property and the same was posted on the list and in these circumstances, this petitioner has filed this petition to implead the proposed parties, i.e., the Secretary and the president of the RRTC and the averments of the petition

states that this respondent was a tenant under the RRTC and based on the compromise between them, the RRTC has accepted to collect the rents from this respondent and the same was disposed on 10.07.2021, whereas in the case filed by this petitioner against one of the tenants namely Mr.G.Ravikumar, pertaining to the same subject matter, which was pending before the Principle District Munsif Court of Kancheepuram in O.S.No. 145 of 2021 and in the above said case, the defendant Mr.G.Ravikumar has filed an application in IA.No. 1 of 2021 to implead the said secretary and the president of the RRTC, the petitioner has raised vehement objections to implead the said persons in the counter filed in the above petition and based on the counter, the above application was dismissed on 04.08.2022 and moreover, it is pertinent to note that the petitioner has taken a dual stand in the same subject matter, therefore, by this virtue, the petitioner has filed this vexatious petition only with an intention to drag on the proceedings of the above case to proceed the case.

9. That since the petitioner has taken as stated that the secretary and the president of the RRTC is an unnecessary party to the suit in one case and in another case, the petitioner has taken a different stand that the secretary and the president of the RRTC was a necessary party to this suit, which shows that the petitioner does not want to proceed the case before this Court, which shows the Demeanor of the petitioner and the petitioner using this vexatious petition as a shield to protect him from depositing the evidence before this Court and even if the petitioner has a good case on merits, then what is the impediment to the

petitioner to get down the case by way of deposing evidence and by this virtue, it clearly shows that the petitioner has filed this frivolous petition only with an intention to drag on the proceedings of the case.

10. That at the outset the present application to implead the proposed parties is highly belated and nothing but a delay in tactics. The allegation that the proposed parties compromised the suit in O.S.No. 748 of 1999 thereby accepted to collect the rent by the petitioner and the suit was disposed on 10.07.2021 and that the petitioner now only received the certified copy of the decree and that the respondents 2 and 3 have no objection to collect the rent from this respondent are all strange and untenable and there is no whisper in the plaint about the suit in O.S.No. 748 of 1999 and compromise and it is more pivotal to note that there is no reason stated in the petition that why the proposed parties were not been added as defendants at the initiation of this suit itself and moreover, having failed to frame the suit in proper manner to fill up the Locuna, the present application is filed as an afterthought. Hence, this respondent counsel prayed to dismiss the petition.

11. Heard both sides arguments and connected material records perused. The petitioner filed this suit based on settlement deed dated 28.03.2019 executed by one Kannammal in favour of the plaintiff. It is the stand taken by the 1st respondent/1st defendant that they are paying rent only to Reading Room and Tennis club and he is tenant under Reading Room and Tennis club.

12. Now this petitioner come forward with this petition to implead the Secretary & President of Reading Room and Tennis club as D2 and D3 in the above suit, since in O.S.No. 748/99 at the time of compromise, the Reading Room and Tennis club has made no objection to collect the rent from the 1st respondent. Hence, the petitioner, now wants to implead the proposed respondents 2 & 3 in the suit.

13. If the petitioner/plaintiff has any document to support his case, he has every opportunity to produce the same before this Court at the time of trial. The R2, R3 are not proper and necessary party to decide this suit. Hence this petition to implead the parties to the document to prove his case is devoid of merits and liable to be dismissed.

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

Dictated to the steno-typist, who typed the same in her computer, corrected and pronounced by me in open court, this the 22nd day of August 2024.

Additional District Munsif,
Kanchipuram.