

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: TMT. V. VANNAMALAR, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Tuesday, the 16th day of April 2024.

I.A. NO.3 OF 2021
IN
O.S. NO.55 OF 2019

Vannipakkam village Mettupalayam Hamlet
represented by K.Mohan Kumar

..... Petitioner/Plaintiff

Versus

1. Nandakumar
2. Paarvathi
3. Varalakshmi
4. Jothi
5. Uma

.....Respondent/Defendant

..... Respondents/Proposed Defendants 2 to 5

This petition has come on 16.04.2024 before me for final hearing in the presence of Mr.D.Kumar, Mr.S.Nanda Kumar, learned counsels for the petitioner and Mr.P.S.Balaji learned counsel for the 2nd Respondent. The respondents 1, 3 to 5 were set exparte. Upon hearing the arguments made by the learned counsels for the petitioner and the 2nd respondent and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This application is filed under Order 1 Rule 10 r/w. Section 151 of CPC to implead the respondents 2 to 5 as defendants 2 to 5 in the above suit in OS.No.55 of 2019.

2. Brief averments of the affidavit filed by the Petitioner are as follows:

2.1. The petitioner who is the plaintiff in the suit submits that he has filed the suit for a relief of permanent injunction to restrain the 1st defendant from in any manner alienating or encumbering the suit property to third parties and from in any manner

disturbing the plaintiff's peaceful possession of Bajanai koil Temple in the suit property.

2.2. The petitioner further submits that one late R.M.Krishnasamy was running a rice mills in the name and style R.K.K. Rice Mills adjacent to the suit property. The villagers used to worship in the temple in the suit property and also conduct Poojas. The said R.M.Krishnasamy also contribute to conduct poojas. After the demises of R.M.Krishnasamy, his family members started to run the said rice mills and also followed to contribute to the Pooja Ceremonies in the temple. Being so, the family members of the R.M.Krishnasamy when they decided to sell their Rice Mill, they with malafide intention also encroached upon the Temple Land and tried to sell the same. The Revenue Records shows the Temple land as Poramboku Land. During the pendency of the suit proceedings, the legal heirs of R.M.Krishnasamy who are the respondents 2 to 5 have entered into a partition deed. The suit property which is the temple lands were also included in the said partition deed as if the suit property belongs to them.

2.3. The petitioner further submits that having created a partition deed, the respondents 2 to 5 may at any time alienate the suit property to third parties. Hence in the interest of justice, the respondents 2 to 5 are to be impleaded as defendants 2 to 5 in the suit for proper adjudication. Hence this Petition.

3. Brief averments of the Counter filed by the 2nd Respondent are as follows:

3.1. The 2nd respondent submits that the petitioner/plaintiff filed the above suit for permanent injunction against the 1st respondent/1st defendant. The 2nd respondent states that the petitioner / plaintiff has drafted the plaint as if he has filed the suit for the cause of the general public of Vannipakkam village. But there is no common cause or public interest was made out by the plaintiff in the above suit. The plaintiff has no locus standi to represent either the villagers of Vannipakkam village or to institute the suit in respect of the suit property.

3.2. The 2nd respondent further submits that there is no averments in the plaint as to in whose name the suit property is entered in the revenue records. The suit has been filed as if the suit property belongs to Bajanai Koil temple. But no documents whatsoever has been filed in support of the alleged claim by the petitioner. The 2nd respondent further states that the suit property is the ancestral property of his father R.M.Krishnasamy.

3.3. The 2nd respondent states that the land in S.No.177/2 measures about 0.65.50 Ares or Acres 1.62 cents and is classified as Grama Natham property and not Promboke land as alleged by the petitioner. The said R.M.Krishnasamy, owned and possessed 44 cent out of the said 1.62 cents in S.No.177/2, which is the suit schedule property. After his death his daughter, the 2nd respondent acquired the same and she became the absolute owner of 1760 Sq.Meter i.e., 44 cents which was Sub-divided as S.No.177/2A and she is in possession and enjoyment of the same and patta bearing No.365 was also issued to the 2nd respondent in respect of the said property. The petitioner deliberately suppressed the above facts. The contribution made by 2nd respondent's family to the Sidhi Vinayagar Koil has nothing to do with the suit property owned by the 2nd respondent.

3.4. The 2nd respondent further states that she has settled the suit property in favour of her son by a deed of settlement vide document number 7124/2019. The suit property is a private patta land of the 2nd respondent. The 2nd respondent is a unnecessary party to the suit. Only to harass and make wrongful gains, this petition is filed. Initially this suit was filed against the 1st respondent who is not the owner of the suit property. Hence this petition is liable to be dismissed.

4. Even after service of notice the respondents 3 to 5 have failed to appear before this court and hence they were called absent and set exparte. Even after providing with sufficient time and opportunities, the 1st respondent has failed to file his counter and hence he was set exparte.

5. Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not.

6. Heard both sides arguments. Records Perused. Written arguments filed on the side of the petitioner was perused.

7. On an analysis of the records and on considering the arguments, this court finds that the petitioner is the plaintiff in the suit and that the suit has been filed by the petitioner for a relief of Permanent Injunction as against the 1st respondent / 1st defendant with respect to the suit property. When the suit was pending, this petition has been filed by the petitioner to implead the 2nd to 5th respondents as 2nd to 5th defendants in the suit. The petitioner contends that the father of the proposed defendants late R.M.Krishnasamy was running a rice mills in the name and style R.K.K. Rice Mills adjacent to the suit property and after his demise, the legal heirs of R.M.Krishnasamy who are the respondents 2 to 5 have entered into a partition deed. The suit property which is the temple lands were also included in the said partition deed as if the suit property belongs to them. Hence this petition has been filed to implead the 2nd to 5th respondents as Defendants in the suit stating that they are proper and necessary parties to the suit.

8. On the other hand, the 2nd respondent submits that the suit property is the ancestral property of her father R.M.Krishnasamy and that after the death of her father R.M.Krishnasamy, the 2nd respondent acquired the suit property and she became the absolute owner of the same and that she is in possession and enjoyment of the same and had also obtained patta bearing No.365 for the said property. The 2nd respondent also states that she is a unnecessary party to the suit and only to harass her this petition has been filed.

9. The respondents 1, 3 to 5 were remained set exparte.

10. On careful analysis, this court finds that though the petitioner alleges that the suit property is a temple land, the 2nd respondent states that it is her absolute property. In order to find out whether a person is a necessary party to the suit, it must be established that the proposed party has got a right in respect of the suit proceedings and in the absence of the said proposed party no effective decree can be passed. In this case the petitioner who is the plaintiff in the suit states that the suit property has been divided among the proposed defendants by way of partition and the 2nd respondent also claims title over the suit property. The other respondents remained exparte without filing any counter to this petition. Considering the above, this court concludes, that the 2nd to 5th respondents/proposed parties are necessary parties to the suit since any decree passed in the suit will also bind them. It is also necessary to add the said proposed parties as defendants in the suit for effectual and complete settlement of issues in the suit and to avoid multiplicity of litigations.

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

Dictated to Steno-typist, typed by her in the Computer directly, printed, corrected and Pronounced by me in open court on this the 16th day of April 2024.

Sd/-V. VANNAMALAR,
DISTRICT MUNSIF,
PONNERI.

Both side witnesses and documents:- NIL

Sd/-V. VANNAMALAR,
DISTRICT MUNSIF,
PONNERI.

Fair/ Draft Order
I.A.No.3/2021
O.S.No.55/2019
Date:16.04.2024
DMC,PNI.