

**DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE COURT,
SHENCOTTAH**

Present: Shri. M.SUNIL RAJA, B.A., M.L.,

District Munsif cum Judicial Magistrate

Dated on this the 31st day of July 2024

IA No.06 of 2023

in

OS No.39/2023

Muthusamy

.....Petitioner/3rd Party/To implead
the party as 4th defendant

Vs

1. Chelladurai

....1st Respondent/Plaintiff

2. The Secretary

3. The Deputy Commissioner

4. The Deputy Registrar

..2 to 4th Respondents/1 to 3
Defendants

This petition is coming before me for final hearing in the presence of the learned counsel Tr.R.Saravanan for the Petitioner/3rd Party/To implead the party as 4th defendant and the learned counsel Tr.M.Ganesan appeared for the 1st Respondent/Plaintiff and counter not filed, and the learned counsel Tr.R.Gopinath appeared for the 2nd Respondents/1st Defendant and counter not filed, and the learned Government Pleader Tr.K.Muthukumarasamy appeared for the 3rd and 4th Respondents/Defendants and counter not filed, upon perusing the petitioner side material records, documents and having stood over for consideration till date this court delivers the following....

ORDER

This petition is filed under Order 1 Rule 10 (2) of CPC.

1. The petitioner states that the suit is filed by R1/Plaintiff against the defendants for relief of declaration and injunction. The petitioner submits that he is in possession of the suit property based on the Adavolai issued by the 2nd defendant and claims he is a necessary party.

2. The respondent side filed a counter in IA No.08/2023 stating that the petitioner is not a necessary party and that the property belongs to the plaintiff. An advocate commissioner petition was already filed. After inspection by the commissioner, if the suit property belongs to the 2nd defendant, the Plaintiff/1st respondent is ready to pay the amount to the 2nd defendant. Counsel for R2 and R4, Mr. GP, is present.

3. Heard. Perused the records. The petitioner claimed that he is in possession of the property as a tenant of the 2nd defendant/3rd Respondent. However, no documents were filed to support this claim. Except for the oral statement, no evidence has been provided. Further, even as per the averment of the plaintiff, the petitioner is only a tenant under R3. The 2nd defendant already filed a written statement in which there is no mention of the tenancy alleged by the petitioner. Hence, he is not a necessary party, though he may be a proper party. In a civil case, the plaintiff is Dominus Litus. In this case, the plaintiff chose to file the suit against R2 to R3 alone, and as per the cause of action, they alone are the necessary parties. Considering the reasons stated in the petition, this court views that the petitioner is not a necessary party to the suit, and this petition is liable for dismissal.

In the result, this petition is dismissed.

District Munsif Cum
Judicial Magistrate, Shencottah

1. Petitioner/3rd Party/To implead the party as 4th
defendant side witness and documents: Nil
2. Respondents/Defendants side witness and documents: Nil

District Munsif Cum
Judicial Magistrate, Shencottah