

G.Mani Vs. Jejigan

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Court : Chennai

Decided On : Apr-25-2013

Judge : K.Ravichandrabaabu

Appellant : G.Mani

Respondent : Jejigan

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED :- 25.04.2013
Coram The Hon'ble Mr. Justice K.RAVICHANDRABAABU C.R.P.(PD) No. 833 of 2011 and M.P.No. 1 of 2011 G.Mani .. Petitioner Vs 1. Jejigan @ Ariappan 2. Muniammal 3. Raja 4. Solaiappan 5. Vikram 6. Devaki 7. Sampooram 8.G.Kumar 9.G.Senthil Kumar .. Respondents Civil Revision Petition filed against the fair and decreetal order dated 30.8.2010 made in I.A.No.244 of 2010 in O.S.No.119 of 2009 on the file of the District Munsif Court, Krishnagiri. For Petitioner :- Mr.K.Sukumaran For Respondents :- Mr.V.Nicholas (R2 to R6) ORDER The present Civil Revision Petition is filed against an order rejecting the application filed under 1 Rule 10 CPC wherein and whereby the petitioner herein sought to implead himself as party defendant in the suit in O.S.No. 119 of 2009 on the file of the District Munsif Court, Krishnagiri filed by the respondents 1 to 6 herein against the respondents 7 to 9.

2. The said suit is one for declaration and for permanent injunction in respect of the suit properties. The petitioner herein who is a third party filed an application under Order 1 Rule 10 CPC seeking to implead himself as party defendant in the

said suit by contending that one of the items of the suit property belongs to the petitioner and he is in possession and enjoyment of the same and therefore he is a necessary party to the suit.

3. The said application was resisted by the plaintiffs by contending that they are not seeking any relief against the petitioner and the property in which he is in possession and enjoyment is not the property to which the plaintiffs seek relief in the suit. The Court below found that the petitioner is not a necessary party in the suit, especially when the dispute between the plaintiffs and the defendants in respect of the suit property has been subsisting from the year 1999 onwards and the petitioner was not made as a party in any one of the proceedings earlier. The Court below has also found that the property found at Ex.A1 is not one of the suit properties. The petitioner also has not given new survey numbers. Consequently the Court below has rejected the application. I find no error or irregularity in the order passed by the Court below, especially when the plaintiffs themselves have stated before the court that they are not seeking any relief against the petitioner herein nor against the property in which he is in possession and enjoyment. When that being the factual contention of the plaintiffs, the petitioner cannot seek to implead himself as party defendant in a suit which is filed by the plaintiffs/ respondents 1 to 6 against the respondents 7 to 9 herein.

4. It is well settled that the plaintiff being a dominus litus is entitled to choose the person against whom he is seeking the relief. If at all the petitioner is having any grievance against the plaintiffs, it is open to the petitioner to file a separate suit and contest the same against the plaintiffs. Therefore, the Court below has rightly rejected the petition filed by the petitioner under Order 1 Rule 10 CPC. Accordingly, the Civil Revision Petition is dismissed. Consequently, the connected M.P. is closed. No costs. krr To The District Munsif Court Krishnagiri

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