

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) No.167 of 2015

R.Mohanasamy	...	Petitioner
	Vs.	
1. Kandammal (Died)		
2. Valliathal		
3. Natarajan,		
4. Subramaniam		
5. Arumugham		
6. Aruchamy	...	Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and Decree made in I.A.No.406 of 2013 in O.S.No.313 of 2005 on the file of the District Munsif Court, Avinashi, dated 18.11.2014.

For Petitioner : Mr.N.Umapathi

ORDER

This civil revision petition is directed against the order dated 18.11.2014 passed by the District Munsif Court, Avinashi, in I.A.No.406 of 2013 in O.S.No.313 of 2005.

2. The respondents 1 to 4 had instituted a suit in O.S.No.313 of 2005 before the District Munsif, Avinashi, against the 5th and 6th respondents for declaration of title and for consequential permanent injunction. Pending the suit, the brothers of the petitioner viz., Varanashiappan and Vellingiri filed an application in I.A.No.1441 of 2010 to implead them as defendants contending that they are entitled to 2/7 share in the suit property. The petition was allowed on 08.06.2011, but subsequently, they filed I.A.No.1202 of 2012 under Section 115 CPC to delete them from the suit stating that in the suit property, they do not have any right. When the suit is in part-heard stage, the petitioner filed I.A.No.406 of 2013 to implead him as a defendant in the suit.

3. The application was opposed by the respondents 1 to 4. The learned District Munsif, Avinashi, dismissed the application. Aggrieved by the order, the present civil revision petition is filed.

4. Mr.N.Umapathi, learned counsel for the petitioner submitted that the petitioner is having 1/7th share in the suit property. The suit is pending from 2005 and the impleading application filed by the brothers of the petitioner were allowed in 2010 and they were removed from the suit in the year 2012 and that cannot be a ground to reject the petition filed by the petitioner.

5. According to the plaintiffs, their father purchased the suit property on 09.08.1965. The petitioner claims right over the property based on the sale deed dated 13.08.1965. The trial Court has dismissed the application observing that the suit was instituted in the year 2005 and it is in part heard stage. If this petition is allowed that will defeat the ends of justice.

I do not find any merit in this civil revision petition. In fine, the civil revision petition is dismissed. No costs.

30.01.2015

sms
To
The District Munsif Court, Avinashi,

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K.KALYANASUNDARAM, J.

sms

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