

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

C.R.P.(PD).No.4724 of 2014
and M.P.No.1 of 2014

V.Ramakrishnan

... Petitioner

Vs.

1.Perumi
2.Saravanan
3.Sampath
4.Sathiya
5.Rajendran
6.Kasi
7.Sivakumar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 19.09.2014 passed in I.A.No.214 of 2014 in O.S.No.93 of 2012 on the file of the Subordinate Court, Harur.

For Petitioner : Mr.N.Thiagarajan

For Respondents : Mr.N.Umapathy (R1 to R4)

R5 to R7 notice served.

ORDER

Challenging the fair and final order passed in I.A.No.214 of 2014 in O.S.No.93 of 2012 on the file of the Subordinate Court, Harur, the 3rd party petitioner has filed the above Civil Revision Petition.

2.The plaintiffs filed the suit in O.S.No.93 of 2012 for partition. The suit was filed by the plaintiffs on 16.11.2012. On 12.11.2012 (i.e.) four days prior to the filing of the suit, the plaintiffs 1 to 3 sold the property to the revision petitioner and handed over possession of the same. Since the plaintiffs 1 to 3 have sold the property, apprehending that they may not prosecute the suit in a proper manner, the purchaser of the property had filed an application in I.A.No.214 of 2014 to implead him as the 5th plaintiff in the suit. Admittedly, the purchase made by the revision petitioner was prior to the filing of the suit. The application filed by the 3rd party petitioner was contested by the parties stating that he is not a proper and necessary party. The trial Court, taking into consideration the case of both parties, dismissed the application.

3.The learned counsel for the petitioner submitted that since the petitioner is apprehending that the plaintiffs 1 to 3 may not prosecute the suit in a proper manner for the reason that they have sold the property to him, the trial Court should have impleaded the revision petitioner as the 5th plaintiff in the suit and allowed to prosecute the suit in a proper manner.

4.In support of his contention the learned counsel for the petitioner relied upon a judgment of the Division Bench of this Court reported in **2014 (4) CTC 814 [V.L.Dhandapani and others Vs. Revathy Ramachandran**

and others] wherein the Division Bench held that a transferee pendente lite can be impleaded a party to the suit.

5.Mr.N.Umapathy, the learned counsel for the respondent also fairly submitted that the judgment relied upon by the learned counsel for the petitioner applies to the facts and circumstances of the present case. Further, the learned counsel submitted that the revision petitioner may be impleaded as the 5th plaintiff in the suit.

6.Having regard to the submissions made by the learned counsel on either side, since the revision petitioner is a proper and necessary party, the trial Court should have allowed the application. In these circumstances, the fair and decreetal order passed in I.A.No.214 of 2014 in O.S.No.93 of 2012 are set aside. The application in I.A.No.214 of 2014 stands allowed. The revision petitioner is impleaded as the 5th plaintiff in the suit.

7.The Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

23.07.2015

M. DURAISWAMY,J.

va

To

The Subordinate Court,
Harur.

**C.R.P.(PD).No.4724 of 2014
and M.P.No.1 of 2014**

23.07.2015