

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.4770 of 2015

J.Haldurai

.. Petitioner

Vs

1.J.Ramalingam
2.Parvathy Ammal
3.R.Lingaiyan

.. Respondents

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 13.07.2015 made in I.A.No.48 of 2014 in O.S.No.63 of 2013 on the file of the Subordinate Court, Uthagamandalam.

For Petitioner : Mr.V.Chinnasamy

ORDER

The Civil Revision Petition is filed against the order dated 13.07.2015 made in I.A.No.48 of 2014 in O.S.No.63 of 2013 on the file of the Subordinate Court, Uthagamandalam.

2.The petitioner as a plaintiff filed a suit for partition and separate possession of half share of A and B schedule properties stating that the properties belong to his father. He died intestate leaving behind the plaintiff and the defendant as legal heirs. Since the defendant is not willing to give partition, he was constrained to file a suit. The defendant filed the written statement and contested the suit stating that the properties absolutely belong to his wife Parvathy Ammal, who got the property by way of sale deed dated 16.03.1979 and she was in possession and enjoyment of the same. It is further stated that the suit is bad for non-joinder of necessary parties. During the pendency of the suit, the petitioner has filed an application in I.A.No.48 of 2014 to implead one Parvathy Ammal and Lingaiyan as parties to the proceeding. The Trial Court after hearing both sides has dismissed the application. Against which, the present Civil Revision Petition has been filed by the petitioner/plaintiff.

3.At the time of admission, argument of the learned counsel for the petitioner is heard in length.

4.It is submitted by the learned counsel for the petitioner that the properties have been sold by his mother Thunndiammal on 02.03.1960 to one

Ramaiyan. After the death of the said Ramaiyan, his son Lingaiyan, the third respondent herein has sold the same to Parvathy Ammal, the second respondent herein and hence they are necessary parties. The suit has been filed in the year 2013 but the sale deed came into existence even in the year 1960. The mother of the petitioner sold the properties to one Ramaiyan and after his death, his son Lingaiyan, the second respondent herein succeeded the properties and sold the same in favour of the wife of the first respondent herein, namely, Parvathy Ammal, the second respondent herein on 16.03.1979. On that basis only, the petitioner has come forward with an application to implead them. But the proposed parties are not necessary parties. On perusal of the plaint, it is seen that the petitioner/plaintiff has not stated as to whether the properties are separate properties of his father or ancestral properties and whether the properties in question are the properties of the father or the mother. Further, the date of death of the father and the mother of the petitioner/plaintiff has not been stated. So, the properties have been sold in the year 1960 and on the date of filing of the suit, the second respondent was aged about 51 years. In such circumstances, I am of the view that the proposed parties, namely, the respondents 2 and 3 herein were neither necessary nor proper parties for adjudication. Hence, I do not find any merits to interfere with the finding of the Trial Court and the Civil Revision Petition deserves to be dismissed.

R.MALA. J.,

cse

5.In the result, the Civil Revision petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

04.01.2016

Index: Yes/No
Internet: Yes/No
cse

To

The Subordinate Judge, Udhagamandalam.

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