

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.1128 of 2016
and C.M.P.No.6172 of 2016

Minor R.Ajay Vishwa
rep by his next friend/Mother
Muckani

... Petitioner

Vs.

- 1.V.Rajkumar
- 2.Malliga
- 3.Sureshkumar
- 4.Ravikumar
- 5.Kumaresan
- 6.Chidambaranathan
- 7.Shymalanathan
- 8.Sathyanathan
- 9.G.Ganapathi
- 10.P.Palaniammal
- 11.M.Kandasamy
- 12.M.Govindaraju
- 13.Chinnarasu

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 11.03.2015 made in I.A.No.401 of 2014 in I.A.No.372 of 2009 in O.S.No.55 of 2004 on the file of the Sub Court, Sankari.

For Petitioner : Mr.R.Prabakar

ORDER

Challenging the fair and final order passed in I.A.No.401 of 2014 in I.A.No.372 of 2009 in O.S.No.55 of 2004 on the file of the Subordinate Court, Sankari, 3rd party petitioner has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.55 of 2004 for partition. After contest, the trial Court passed a preliminary decree on 01.08.2005. Thereafter, the plaintiff filed final decree application in I.A.No.372 of 2009 in the year 2009.

3.Subsequently, in the year 2014, the revision petitioner, who is the son of the 3rd defendant viz., Ravikumar (4th respondent herein) filed an application in I.A.No.401 of 2014 under Order 1 Rule 10 of the Civil Procedure Code to get himself impleaded in the final decree application.

The application filed by the revision petitioner was contested by the plaintiff stating that he is not a proper and necessary party for the proper adjudication of the matter. When the suit was pending from the year 2004, the revision petitioner kept quiet for a decade and filed the present application to get himself impleaded as a party in the final decree application. The contention of the plaintiff in the suit was that the 3rd defendant is Viswanathan's 2nd wife's son and the trial Court gave a finding that the 3rd defendant is the son of the 2nd wife of Viswanathan. When that being the case, the 3rd defendant's son cannot claim any independent right over the suit property and get himself impleaded in the final decree proceedings.

4. It is also brought to the notice of this Court by the learned counsel appearing for the petitioner that the revision petitioner had already filed a suit for partition in O.S.No.97 of 2012 on the file of the Subordinate Court, Sankari, which is pending.

5. In these circumstances, the trial Court has rightly dismissed the application filed by the revision petitioner. I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the

Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

13.07.2016

To

The Sub Court,
Sankari.

M.DURAIWAMY,J.
va

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