

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

C.R.P (PD) No.2436 of 2016

&

C.M.P.No.12571 of 2016

D.Balan @ Balakrishnan

...Petitioner

vs.

1.D.E.Lakshmi
2.D.E.Srinivasan
3.D.E.Bhoopathy (Minor)
4.D.G.Geetha
5.D.Ganesan
6.D.Easwaran

.. Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 10.02.2016 passed in I.A.No.408 of 2015 in O.S.No.45 of 2014 on the file of the Subordinate Judge, Tiruttani.

For Petitioner : Mr.L.Dhamodaran

ORDER

This Civil Revision Petition is directed against the order dated 10.02.2016 in I.A.No.408 of 2015 in O.S.No.45 of 2014 whereby and whereunder the learned Subordinate Judge, Tiruttani allowed the

applications filed by the respondent to implead them as parties.

2. Heard the learned counsel for the petitioner.

3. The suit in O.S.No.45 of 2014 was filed by the petitioner for a decree of specific performance on the strength of the sale agreement dated 06.05.2004. During the currency of the suit, the respondents 1 to 4 filed an application for impleading in I.A.No.408 of 2015. According to the Respondents 1 to 4, they are entitled to share in the suit property and as such, they are also necessary parties for an effective adjudication of the matter. The learned trial Judge allowed the application in spite of the objection raised by the petitioner. Feeling aggrieved, the petitioner has come up with this Civil Revision Petition.

4. There is no dispute that the petitioner filed the suit on the strength of a sale agreement executed by respondents 5 and 6. The agreement is dated 06.05.2004. The suit was filed only in 2014. The respondents 1 to 4 have come up with a contention that they are entitled to a share in the property and as such, respondents 5 and 6 were not empowered to execute a sale agreement in favour of the petitioner.

5. It is true that in a suit for specific performance, the scope of the

suit cannot be enlarged by impleading third parties. However, the fact remains that the respondents 1 to 4 have produced prima facie materials to show that they are having interest in the property in question. The learned trial Judge has recorded sufficient reasons in his order dated 10.02.2016.

6. The respondents 1 to 4 cannot be called as parties having no interest in view of the stand taken by them that it is a joint family property over which the respondents 5 and 6 are not having independent right to sell the property to third parties. The learned trial Judge has exercised his discretion by impleading respondents 1 to 4. The order cannot be said to be perverse warranting interference by this Court.

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

12.09.2016

gpa

To

The Subordinate Judge
Tiruttani

K.K.SASIDHARAN,J.

gpa

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