

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.12.2016

CORAM

THE HON'BLE MRS.JUSTICE **PUSHPA SATHYANARAYANA**

C.R.P.PD.No.2829 of 2016

and

C.M.P.No.14357 of 2016

Rahamathbi

.. Petitioner

vs

1.A.V.Abdul Ghafoor

A.Ismail @ Ismail Khan (died)

2.Fathimabi

3.Nazir Ahamed

4.Nizhar

5.Jawahar

6.Mustak Ahamed

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order dated 08.03.2016 passed by the learned II Additional Subordinate Judge, Villupuram in I.A.No.862 of 2014 in O.S.No.267 of 1999.

For Petitioner : Mr.R.Agilesh

For Respondents : Mr.S.Ganesh for R1

RR2 to 6 Served

No appearance

ORDER

A third party, who has proposed to implead herself in the suit filed by the first respondent/plaintiff for declaration of title and for recovery of possession has filed the above Civil Revision Petition, aggrieved by the rejection order passed by the Court below.

2. The case of the revision petitioner is that she is a third party in the suit and that she is one of the sharers of the suit property. She claims title through her paternal grand mother Khathijabi. The said Khathijabi had six sons and a daughter viz., Rasulkhan, Amirkhan, Ibrahimkhan, Ibrahimkhan @ Ibrahim bin, Ismailkhan, Abdul Khader and Ghouse bi. The sons of Khathijabi had given a release deed in favour of Ghouse bi, who sold the suit property in favour of the first respondent/plaintiff. The revision petitioner claims to be the daughter of Abdul Khader, one of the sons of Khathija Bi. Accordingly, she seeks to implead herself as a party to the proceedings.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent. Despite notice being served, there is no representation on behalf of respondents 2 to 6 either in person or through the counsel.

4. As stated earlier the said Abdul Khader himself had given release deed in favour of his sister along with his other brothers, who in turn, sold the suit property in favour of the first respondent/plaintiff. When the father himself has no right in the suit property, the petitioner cannot have any claim over the same. However, all these details were not stated in the affidavit filed in support of the application filed before the Court below for impleading herself as a party. She has not even mentioned as to whose heir she is, in the application. It is also not her case that how she is a necessary party to the suit, what is her right over the suit property, etc. The suit has been filed in the year 1999 and it was posted for trial. Further the first respondent/ plaintiff has also filed his proof affidavit. It is ready for the cross examination of PW1. At this stage, the revision petitioner has filed the interlocutory application stating that she should be impleaded in the suit for proper adjudication, without even mentioning how she is a necessary party.

5. In the above said facts and circumstances, this Court is of the opinion that the proposed party viz., the revision petitioner is not a necessary party for the proper adjudication of the suit. The very application has been filed deliberately to delay the proceedings. Considering the same, the learned II Additional Subordinate Judge,

Villupuram had dismissed the application and I see no reason to interfere with the same. Accordingly, the Civil Revision Petition is dismissed. However, as the suit is ripe for trial, the Court below is directed to dispose of on or before **30.04.2017**. No costs. Consequently, the connected miscellaneous petition is closed.

08.12.2016

vj2

Index: Yes/No

Internet: Yes

To

1. The II Additional Subordinate Judge, Villupuram.

PUSHPA SATHYANARAYANA,J.,
vj2

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