

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.477 of 2016
and C.M.P.No.2435 of 2016

Aruchamy

... Petitioner

Vs.

1.Sellappa Gounder

2.Chinnappa

3.Vallimmal

4.Radhamani

5.Sivakami

6.Anandhakumar

7.Maragathamani

8.Palanisamy

9.Aruchamy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 30.10.2015 made in I.A.No.10 of 2015 in O.S.No.2 of 2011 on the file of the I Additional District and Sessions Judge, Coimbatore.

For Petitioner : Mr.S.Vinoth Kumar

ORDER

The arguments advanced by Mr.S.Vinoth Kumar, learned counsel for the petitioner are heard. The impugned order and the copies of documents produced in the form of typed set of papers are also perused.

2. The sole plaintiff in the original suit in OS.No.2 of 2011 pending on the file of the I Additional District and Sessions Judge, Coimbatore is the petitioner in the Civil Revision Petition. The suit was originally filed against the respondents 1 to 7 for partition, in respect of the properties set out in two schedules designated as A-schedule and B-schedule to the plaint. After a lapse of nearly 4 years, the petitioner has chosen to file an application in IA.No.10 of 2015 in the said suit under Order I Rule 10 C.P.C. to implead the respondents 8 and 9 as party-defendants in the said suit. It is not stated, as to how they become necessary parties to the suit. Of course, they are stated to be sons of Sellappa Gounder, the 1st defendant. But, they are not sought to be impleaded as persons having a share in the plaint schedule properties. On the other hand, the petitioner herein/plaintiff wants to implead them as party-defendants to the suit, on the premise that some other properties had been purchased by Aruchamy and Palanisamy [respondents 8 and 9] long back on 29.10.2004 and that the said acquisitions were made out of the joint family income, derived from the joint family properties.

3. The petitioner was very much aware of the said purchase made in the year 2004 and the suit itself came to be filed, seven years after the said purchase made by respondents 8 and 9. The petitioner has not even included the said properties as part of the properties, regarding which, partition has been sought for. The same will make it clear, that the petitioner consciously omitted the said properties and prayed for partition, in respect of other properties and that the same was the reason, why the petitioner did not make the respondents 8 and 9 initially as party-defendants in the suit. The belated approach with application in IA.No.10 of 2015 for impleadment was rightly dealt with by the trial court and the

trial court has not committed any mistake in dismissing the said petition, as an attempt to rope in the parties, who were consciously omitted and to rope in the properties, which were deliberately omitted. There is no merit in the revision and the revision deserves to be dismissed at the threshold.

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

18.02.2016

Index : Yes/No
Internet : Yes/No
gya

To
The I Additional District and Sessions Judge,
Coimbatore.

P.R.SHIVAKUMAR, J.

gya

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