

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(NPD).No.4473 of 2017
and CMP.No.21115 of 2017

Bagyalakshmi

..Petitioner

Vs.

1.Ramadass

N.Saraswathiammal (died)

2.N.Selvakumari

3.Neelavathi

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order dated 01.07.2016 made in I.A.No.605/2015 in O.S.No.125/2010 on the file of Hon'ble Principal Subordinate Court, Krishnagiri.

For petitioner : Mr.J.James

ORDER

The revision petitioner has filed an impleading petition in

IA.No.605 of 2015 in OS.No.125 of 2010. The said application has been dismissed by the court below. Challenging the aforesaid order, the petitioner has filed the present Civil Revision Petition before this Court.

2. According to the revision petitioner, the first respondent has filed a suit in OS.No.125 of 2010 before the Principal Sub Court, Krishnagiri seeking partition of suit property. Preliminary decree has been passed on 06.08.2013 for 1/3 share of the suit property in favour of the plaintiff. And subsequently, filed an IA.No.46 of 2015 to appoint an Advocate Commissioner to decide the suit property as per the preliminary decree passed by the court below. At this stage, the revision petitioner has filed the instant application in IA.No.605 of 2015 seeking permission to implead herself as one of the necessary party in the said suit. According to the revision petitioner, the revision petitioner has purchased the share of the second and the third respondent pending the aforesaid suit. The trial court has dismissed the said application and rejected the claim of the revision petitioner, the said documents have been filed before the court, without examining the genuineness and they have not convinced the said documents. Therefore, the said application was dismissed without giving

appropriate opportunity to the revision petitioner. Therefore, the order passed by the court below is liable to be set aside.

3. It is seen from the said facts and the submissions of the learned counsel for the revision petitioner, it is an admitted fact that pending suit, the revision petitioner has purchased the share of the second and third respondents subject matter of the suit property. The first respondent has filed the suit and obtained preliminary decree against the second and third respondent. At this stage of passing final decree, the present application has been filed to implead herself as a party in the said proceedings. The petitioner has filed application at the stage of final decree proceedings and admittedly he purchased the property from the share of the second and third respondent. In the present suit, the vendors of the petitioner has already been party in the proceedings. At the stage of final decree proceedings, the present application filed by the petitioner is only to drag on and delay the final decree proceedings.

4. In view of the above said facts, the belated application filed by the revision petitioner cannot be entertained. If the petitioner has any grievance, it is for the petitioner to proceed

against the second and the third respondent independently, without being influenced by any observations made in the present application.

5. Hence, the Civil Revision Petition fails and accordingly, the Civil Revision Petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

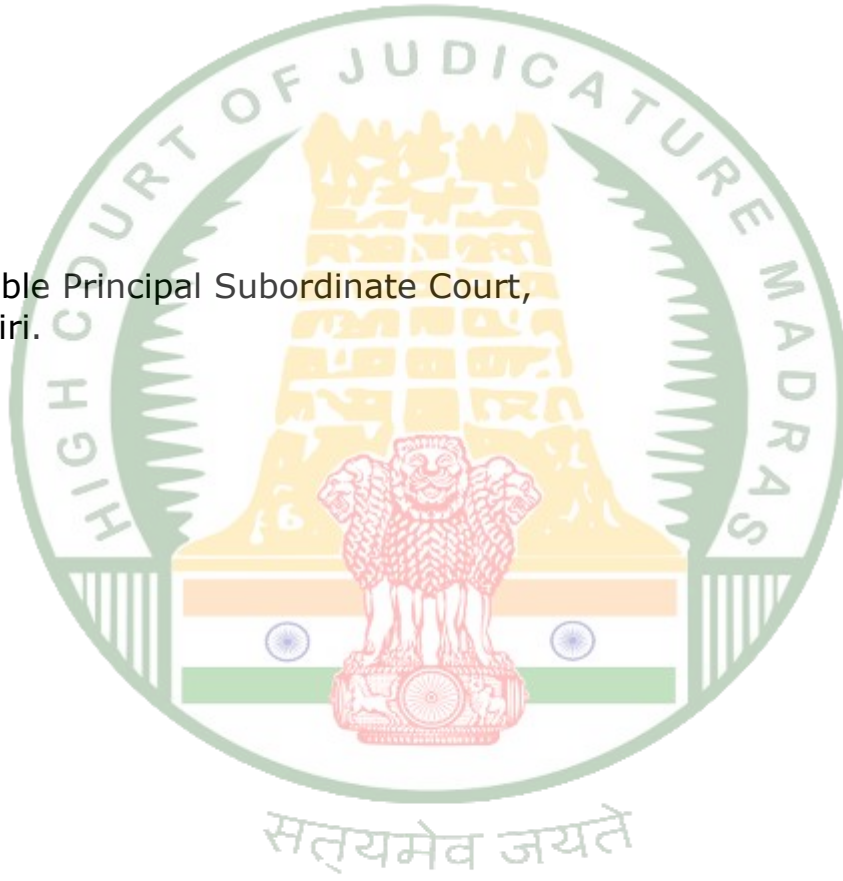
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To
The Hon'ble Principal Subordinate Court,
Krishnagiri.



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D.KRISHNAKUMAR.J,

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