

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2500 of 2011
& M.P.No.1 of 2011

Pavathal

.. Petitioner

Vs.

1. Natarajan
2. Thangammal
3. Ramayammal
4. Annapoorani
5. Jaganathan
6. Palanisamy
7. Subramaniam
8. K.Subramani
9. Rajeswaran
- 10.T.Saravanan
- 11.T.Ramajayam
- 12.T.Nagarajan
- 13.K.Gopal
- 14.A.Subramaniam
- 15.P.S.Subramaniam
- 16.S.Thangamani
- 17.R.Muthulakshmi

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 15.03.2011 made in I.A.No.83 of 2010 in O.S.No.280 of 2007 on the file of the Second Additional Sub Court, Erode.

For Petitioner : Mr.N.Manokaran

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 15.03.2011 made in I.A.No.83 of 2010 in O.S.No.280 of 2007 on the file of the Second Additional Sub Court, Erode.

2. The Petitioner is the plaintiff, respondents 1 to 7 are the defendants and respondents 8 to 17 are the proposed parties. The petitioner filed suit for partition in O.S.No.280 of 2007 against the respondents 1 to 7. The first respondent filed written statement on 03.03.2008 and is contesting the suit. The petitioner filed I.A.No.83 of 2010 to implead the respondents 8 to 17 as defendants in the suit.

3. According to the petitioner, the first respondent sold the portion of the suit property to 8th respondent on 14.05.1997 and another portion of the property to 9th respondent on 28.07.2003. Subsequently pending suit, he sold the property to respondents 10 to 14 by various sale deeds. In view of the above alienation, the respondents 8 to 17 are necessary and proper parties to the suit.

4. The first respondent filed counter affidavit and opposed the said application on the ground that the petitioner was aware of the sale in the year 1997 itself and it is not correct to state that he came to know about the same only after filing the suit.

5. The learned Judge considering the averments in the affidavit, counter affidavit, dismissed the application on the ground that alienation subsequent to the filing of the suit without permission of the Court is hit by Principles of Lis-pendence and the said respondents are not necessary parties.

6. Against that order of dismissal dated 15.03.2011 made in I.A.No.83 of 2010, the present civil revision petition has been filed by the petitioner.

7. The learned Judge dismissed the application on the ground that subsequent alienation without permission of the Court are hit by Principles of Lis-pendence. The learned Judge failed to consider the alienation before filing of the suit. Further, the learned Judge failed to consider whether the contention of the first respondent that he has

alienated the property from and out of his share and from his possession is correct or not. The third party's interest has come. In number of cases, this Court and Hon'ble Apex Court has held that subsequent purchasers are necessary parties in order to avoid multiplicity of proceedings and their vendor may not effectively defend their interest.

8. Considering all the above facts in entirety, the respondents 8 to 17 are necessary and proper parties for proper adjudication for the issue in the suit and also to give an opportunity to the purchasers to put forth their case on merits.

9. For the above reasons, the order of the learned Judge is set aside. I.A.No.83 of 2010 in O.S.No.280 of 2007 is allowed. The respondents 8 to 17 are ordered to be impleaded as defendants 8 to 17.

10. In the result, the CRP is allowed. No costs.

07.07.2017

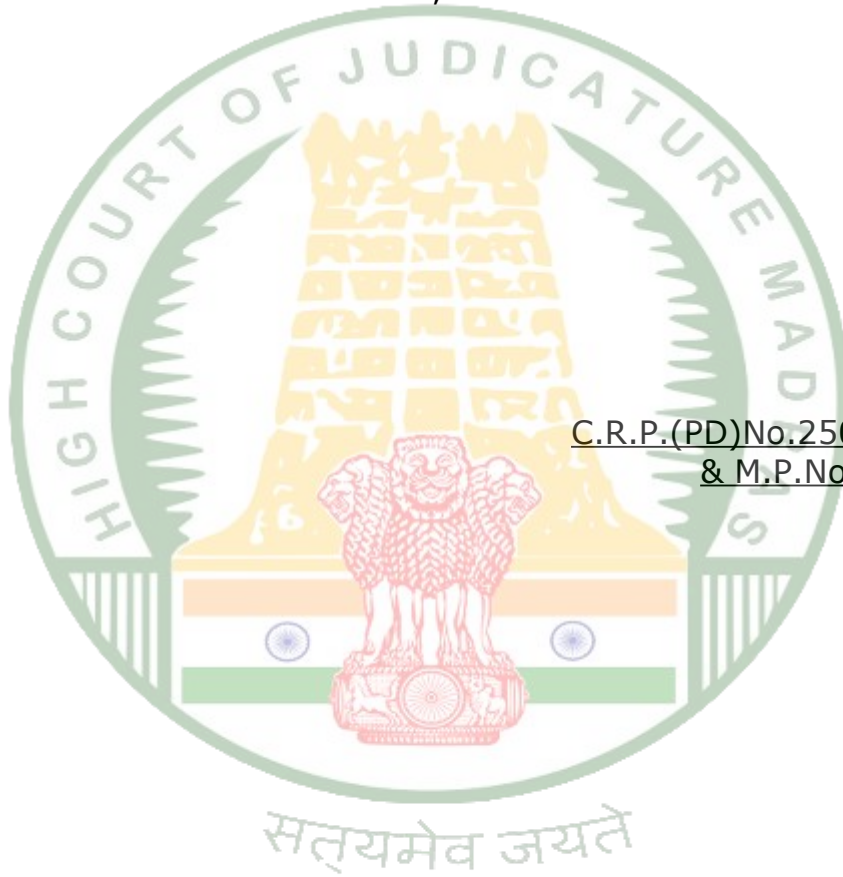
Index : Yes/No
gsa

V.M.VELUMANI, J.

gsa

To

The Second Additional Sub Court, Erode



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