

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.644 of 2017 &

C.M.P. No.3252 of 2017

R.Thangavelu

... Petitioner

v.

Selvi

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order made in I.A.No. 1412 of 2015 in O.S.No.479 of 2015, dated 25.10.2016, on the file of Principal Sub Court, Coimbatore.

For Petitioner : Mr.A.Sivaji

ORDER

Challenging the fair and final order passed in I.A.No. 1412 of 2015 in O.S.No.479 of 2015, on the file of Principal Sub Court, Coimbatore, the

defendant has filed the above Revision Petition.

2. The plaintiff filed the suit in O.S. No.649 of 2010 for partition. In the said suit, the defendant took out an application in I.A.No. 1412 of 2015 under Order VII, Rule 11 of CPC to reject the plaint. The main ground raised by the defendant is that non-joinder of necessary party. According to the defendant, without impleading the defendant's son in respect of second item of the suit property, the suit is liable to be rejected. The plaintiff filed his counter and opposed the application.

3. The Trial Court, after taking into consideration the case of both the parties, dismissed the application finding that non-joinder of necessary party is not a ground to reject the plaint.

4. As rightly pointed out by the Trial Court, the son of the petitioner can be impleaded even subsequently. Therefore, it cannot be put against the plaintiff for rejecting the plaint. The Trial Court has rightly dismissed the application. The Trial Court can decide the issue of non-joinder of necessary party, at the time of deciding the suit.

5. In these circumstances, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.03.2017

Index : Yes/No

Rj

To

The Principal Sub Court,
Coimbatore.

M. DURAISWAMY,J.,

Rj

C.R.P.(PD)No.644 of 2017 &
C.M.P. No.3252 of 2017

16.03.2017
<http://www.judis.nic.in>