

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.979 of 2017 &

C.M.P.No.4850 of 2017

Kuppayee

... Petitioner

v.

1.Kanaga

2.Poonjaolai

3.Unnamalai

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 23.12.2016 made in I.A. No.399 of 2016 in O.S.No.310 of 2015 on the file of District Munsif Court, Polur, Thiruvannamalai District.

For Petitioner : Mr.R.Rajarajan
for Mr.G.Rajan

ORDER

Challenging the fair and final order passed in I.A. No.399 of 2016 in O.S.No.310 of 2015 on the file of District Munsif Court, Polur, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.310 of 2015 for partition. The defendants filed their written statement and are contesting the suit. Subsequently, the 1st respondent, who is the mother of the plaintiff and the 2nd defendant and the husband of the first defendant, filed an application in I.A. No.399 of 2016 to implead her as 3rd defendant in the suit. In paragraph 2 of the affidavit filed in support of the application, the proposed party has stated that she has got a share in the property, therefore, she is a proper and necessary party for proper adjudication of the suit. The application filed by the 1st respondent was opposed by the plaintiff stating that she is not a proper and necessary party.

3. The Trial Court, taking into consideration the case of both the parties, allowed the application finding that the 1st respondent is proper

and necessary party for proper adjudication of the suit.

4. It is not in dispute that the 1st respondent is the mother of the petitioner-plaintiff and the 3rd respondent-2nd defendant and also the husband of the 2nd respondent-1st defendant. She has also satisfactorily explained in the affidavit filed in support of the application that she has got a share in the property.

5. Since the 1st respondent has established her case that she is a proper and necessary party, the Trial Court impleaded her as 3rd defendant. However, the 1st respondent-3rd defendant should establish her case at the time of trial by adducing oral and documentary evidences.

6. 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 District Munsif Court,
Polur, Thiruvannamalai District.

M. DURAISWAMY,J.,

Rj

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