

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4454 of 2012
& M.P.No.1 of 2012

1.D.Manjula
2.D.Rashmi

.. Petitioners

Vs.

1.V.Dassaradha Reddy
2.M.Veera Reddy
3.Puttammal
4.Sowbagya
5.Karat Ahamad
6.Padma
7.Munireddy

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 24.04.2012, made in I.A.No.714 of 2011 in O.S.No.125 of 2010 on the file of the Subordinate Judge, Hosur.

For Petitioners : Mr.J.Hariharan
for Mr.V.Nicholas

For R1, R6 & R7 : No appearance
For R2 to R4 : Mr.V.Krishnan
For R5 : Mr.S.Subramanian

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 24.04.2012, made in I.A.No.714 of 2011 in O.S.No.125 of 2010 on the file of the Subordinate Judge, Hosur.

2. The petitioners are plaintiffs, respondents 1 to 5 are the defendants 1 to 5 in O.S.No.29 of 2005 on the file of the Additional District Judge, Krishnagiri, which was transferred to Subordinate Judge, Hosur and renumbered as O.S.No.125 of 2010. The plaintiffs originally filed O.S.No.29 of 2005 for partition, separate possession, for appointing a Commissioner to effect such division, for enquiring to grant mense profits in respect of the 2/6 shares and for a permanent injunction. The respondents 2 and 3 filed written statement on 11.06.2008 and are contesting the suit. The petitioners filed I.A.No.714 of 2011 in O.S.No.125 of 2010 for impleading the respondents 6 and 7 as defendants 6 and 7 in the suit. According to the petitioners, the respondents 6 and 7, the proposed parties have purchased the suit properties from respondents 1 and 4. Therefore, they are necessary parties to the

suit.

3. The second respondent filed counter affidavit and the same was adopted by the respondents 3 and 4. According to the respondents 2 to 4, in the plaint itself, the petitioners have stated that the fourth respondent was allotted properties mentioned therein to clear the family debts. Accordingly, the fourth respondent sold the properties and cleared the family debts and has stated the details of the same in the written statement. The petitioners have stated that their father sold his share; but they have not stated to whom they sold the properties. The petitioners' father sold the properties to one Srirama Reddy who died leaving behind his wife Padma, two daughters Geetha and Shruthi and one son Sudharshan. The petitioners have not taken any steps to implead the legal heirs of Srirama Reddy, the purchaser from their father and prayed for dismissal of the application.

4. The learned Judge, considering the averments in the affidavit, counter affidavit and materials on record, dismissed the application on the ground that the petitioners have not furnished any details of the property sold and also to whom it was sold.

5. Against the said order of dismissal dated 24.04.2012, made in I.A.No.714 of 2011 in O.S.No.125 of 2010, the present civil revision petition is filed by the petitioners.

6. Heard the learned counsels appearing for the petitioners, respondents 2 to 4 and 5 and perused the materials available on record. Though notice was served on the respondents 1, 6 & 7 and their names are printed in the cause list, there is no representation either in person or through counsel.

7. The suit filed by the petitioners is for partition against their father and others. Pending suit, the petitioners have filed the present application for impleading the respondents 6 and 7 as defendants 6 and 7, on the ground that they have purchased the suit properties from respondents 1 and 4 and therefore, they are necessary parties to the suit. From the affidavit filed by the petitioners in the present application, it is seen that they have not stated which property the respondents 1 and 4 sold; to whom it was sold and when it was sold. Except making vague allegations the petitioners have not furnished any *prima facie* materials for

impleading the respondents 6 and 7 as defendants 6 and 7.

8. The learned Judge, considering all the averments in the proper perspective, has properly appreciated all the facts of the case and exercising the powers conferred on him properly, dismissed the application by giving cogent and valid reason. Hence, there is no illegality or irregularity warranting interference with the order of the learned trial Judge dated 24.04.2012.

9. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2017

Index: Yes/No
gsa

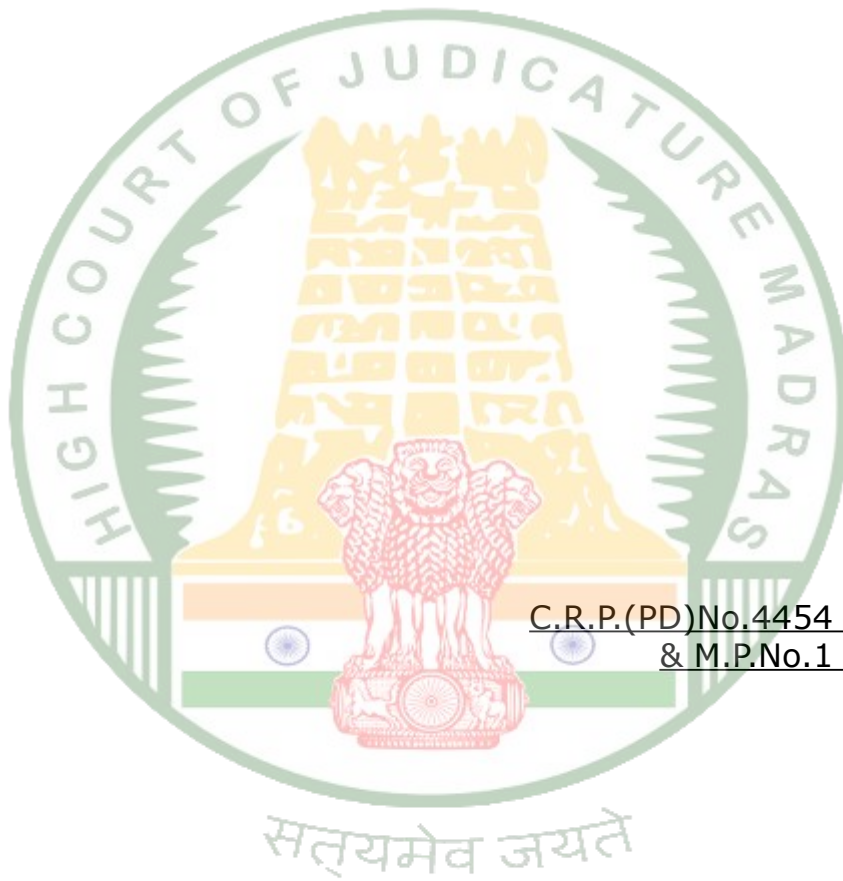
To

The Subordinate Judge,
Hosur.

WEB COPY

V.M.VELUMANI, J.

gsa



C.R.P.(PD)No.4454 of 2012
& M.P.No.1 of 2012

WEB COPY

21.08.2017