



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD).No.1704 of 2017(PD) &
C.M.P. (MD).No.9320 of 2017

1.R.Nagayaswamy
2.Nagarani @ Indirani
3.Rajasekar
4.Sudha

... Petitioners/Petitioners/Plaintiffs

Vs.

1.Radhakrishnan
2.Ramakrishnan
3.Andal
4.Krishnaveni
5.Jeya
6.Senthilselvi
7.Renuga Devi
8.Balamurugan
9.Rajalakshmi

... Respondents/Respondents/Defendants

10.Nageshwaran

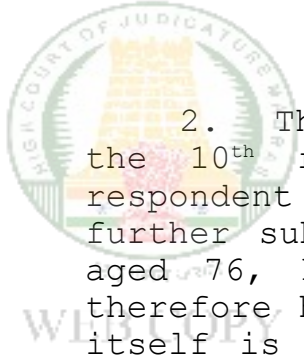
... 10th Respondent/10th Respondent/
proposed Defendant

Prayer: Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order, dated 17.02.2017, in I.A.No.322 of 2016 in O.S.No.21 of 2014 on the file of Additional District cum Sessions Court, Theni, Camp Court at Periyakulam.

For Petitioners : Mr.H.Lakshmi Shankar

ORDER

The petitioners are the plaintiffs and the respondents 1 to 9 are the defendants. The petitioners/plaintiffs filed a suit for partition in O.S.No.21 of 2014 before the Additional District and Sessions Court, Periyakulam, Theni. While so, the petitioners filed an application in I.A.No.77 of 2016 to implead the the purchaser as a party defendant. The Trial Court, allowed the said application with costs. Since the petitioners did not pay the costs in time, they filed another application in I.A.No.322 of 2016 for extension of time. The Trial Court after hearing both sides, dismissed the said application. Aggrieved over the same, the petitioners are before this Court with this civil revision petition.



2. The learned counsel for the petitioners would submit that the 10th respondent ought to have been impleaded as a party respondent since he is a purchaser of the subject property. He further submits that due to ailment of the first petitioner being aged 76, he was not able to contact his advocate in time and therefore he was not able to pay the cost in time. Since the suit itself is for partition, it is necessary that the 10th respondent ought to have been impleaded as a party defendant. The learned counsel for the petitioners submits that no prejudice would be caused to the respondents if the petition is allowed.

3. Considering the facts of the case and the age of the first petitioner being 76, ends of justice will be met if costs of Rs.10,000/- is awarded to be paid by the petitioners to the respondents/defendants in order to implead the 10th respondent as a party defendant. Accordingly, Rs.10,000/- (Rupees ten thousand only) is ordered to be paid by the petitioners to the respondents 1 to 9, within a period of two weeks from the date of receipt of a copy of this order. On such payment being made, the Trial Court is directed to implead the purchaser/10th respondent herein as the 10th defendant. If the petitioners fail to pay the costs as imposed by this Court within the time stipulated, this conditional order stands cancelled automatically.

4. In the result, the civil revision petition is allowed with the above direction. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Additional District and Sessions Judge,
Periyakulam.

+ 1 CC TO Mr.H.LAKSHMI SHANKAR, ADVOCATE IN SR No. 82898

JIKR

TE/JC/SAR-I : 01/11/2017 : 2P/3C

Order made in
C.R.P. (MD) .No.1704 of 2017(PD) &
C.M.P. (MD) .No.9320 of 2017
13.10.2017