



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2017

CORAM:

WEB COPY

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

C.R.P.PD(MD)No.5 of 2017
and C.M.P.(MD)No.15 of 2017

1.V.Muralidharan
2.S.Palaniyappan
3.V.Maheshwaran

... Petitioners/proposed respondents 7 to 9/
proposed defendants 7 to 9

Vs.

1.K.Rajeshkumar

... 1st respondent/petitioner/plaintiff

2.K.Manivannan
3.K.Amuthan
4.Suganthi
5.Jothi
6.Ponnuthai

... Respondents 2 to 6 / respondents 1 to
respondents 1 to 5

5 /
7.K.Indhiramoorthy
8.Gangadharan

... Respondents 7 to 8/respondents 6 to 10/
defendants 6 & 10

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 05.11.2016 in I.A.No.253 of 2016 in O.S.No.49 of 2012 passed by the Principal District Court, Karur.

For Petitioners : Mr.P.Thilakkumar
For Respondents : Mr.M.P.Senthil for R1

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 05.11.2016 in I.A.No.253 of 2016 in O.S.No.49 of 2012 passed by the Principal District Court, Karur.

2.The petitioners are impleaded as defendants 7 to 9 in the suit in O.S.No.49 of 2012. The 1st respondent is the plaintiff in O.S.No.49 of 2012 on the file of the Principal District Court, Karur, for partition against the respondents 2 to 6. The respondents 2 to 6 have filed a written statement, stating that the 2nd respondent sold the 9th item and Plot Nos.14 to 20 in the 10th item of the suit properties to the third parties even before filing



of the suit. In these circumstances, the 1st respondent filed a petition in I.A.No.253 of 2016 for impleading the petitioners herein and the respondents 7 and 8 as party defendants in the said suit as defendants 6 to 10.

3. According to the 1st respondent, the petitioners and the respondents 7 and 8 are necessary parties, who are the purchasers of the property in question, in order to decide the issue and to avoid multiplicity of proceedings.

4. The respondents 2, 3 and 6 filed a counter statement and opposed the said application on the ground that the application is filed at belated stage only to drag on the proceedings and prayed for dismissal of the application.

5. Before the Court below no oral evidence was let in by the parties. The 1st respondent marked 7 documents as Ex.Ps.1 to P.7 and respondents 2 to 6 marked one document as Ex.R1.

6. The learned Judge considering the averments in the affidavit and in the counter statement and documents filed by the parties and also the arguments of the parties, allowed the applications holding that the petitioners and respondents 7 and 8 are necessary parties to the suit. Against the same, the present Civil Revision petition is filed.

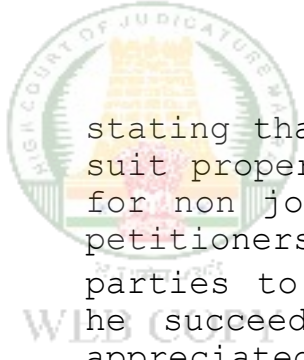
7. The learned counsel appearing for the petitioners submitted that learned Judge failed to consider the fact that the petitioners purchased the property long before the filing of the suit and the 1st respondent / plaintiff and the respondents 2 to 6 / defendants colluded together have filed the present application with an intention to make the property under litigation. The petitioners are not necessary and proper parties as they have purchased the property long before filing of the suit.

8. The learned counsel appearing for the 1st respondent / caveator submitted that suit is filed for partition and parties can be impleaded at any time before passing final decree. The respondents 7 and 8 and the petitioners are the purchasers as stated in the written statement. Therefore they are necessary and proper parties to the suit to decide the issue.

9. Heard learned counsel for the petitioners and the learned counsel for the first respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

10. The 1st respondent filed the suit for partition against the respondents 2 to 6 and they have filed the written statement



stating that item No.9 and Plot Nos.14 to 20 in the 10th item of the suit properties have been sold to third parties and the suit is bad for non joinder of necessary parties. In these circumstances, the petitioners and the respondents 7 and 8 are proper and necessary parties to decide the allotment of share of the 1st respondent, if he succeeded in the said suit. The learned Judge has properly appreciated all the facts and properly applied the ratio in the judgment relied on by the counsel for 1st respondent allowed the application. There is no irregularity or illegality in the order dated 05.11.2016 in I.A.No.253 of 2016 in O.S.No.49 of 2012 passed by the Principal District Court, Karur. Accordingly, the Civil Revision petition is dismissed. No costs. Consequently, connected C.M.P.is closed.

11.Since the suit is of the year 2012, the learned Judge is directed to dispose of the suit as expeditiously as possible in any event on or before 30.04.2017.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge, Karur.

+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 1018
+ 1 CC TO Mr.P.THILAKKUMAR, ADVOCATE IN SR No. 1075

NBJ
TE/JC/SAR-II : 13/04/2017 : 3P/4C

C.R.P. (MD) No.5 of 2017
05.01.2017