

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.563 of 2018
and
C.M.P No.3031 of 2018

K.C.Prakash

... Petitioner

Vs

1.V.Jaganatha Reddy

2.V.Nagaraja Reddy

3.V.Shyla

4.V.Venkataswamy Reddy

5.S.M.Chandraiah

6.C.Mohanraj

7.Munikrishnappa

8.G.Loknath

9.T.Gopal

10.P.M.Sivaprasad

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11.M/s.SPA Builders Pvt.Ltd.,
 No.324, Rajeha Arcade,
 Koramangala
 Bangalore 560 095
 Represented by its
 Commercial Manager.
 Suresh Kumar Sharma,
 S/o.Late Prabhati Lal Sharma
 No.176/6, Alyana Matapa Road,
 Janata Colony,
 Jakkasandra,
 Bangalore.

..

12.Muniamma

13.Paramila

14.Krishna Reddy

15.Chandra Reddy

16.Gowramma

17.K.C.Bhagyamma

18.K.C.Anasuya

19.Thimmaraya Reddy

20.Parvathamma

21.Ramakrishna Reddy

22.Neelamma

(Notice to the respondents
 4 to 11 may be dispensed with
 since they have not
 contested in I.A.)

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the
 Constitution of India, against the fair and decretal order dated

12.01.2018 made in I.A.No.263 of 2017 in O.S.No.34 of 2008 on the file of the Additional District Court, Hosur.

For Petitioner : Mr.D.Shivakaumaran

For Respondents : Mr.M.Guruprasad
(for R.1 to R.3)
(R.4 to 22 - Given up)

ORDER

The Civil Revision Petition has been filed against the fair and decretal order dated 12.01.2018 passed in I.A.No.263 of 2017 in O.S.No.34 of 2008 on the file of the Additional District Court, Hosur.

2.According to the petitioner/2nd defendant, respondents 1 to 3 filed a suit in O.S.No.34 of 2008 for partition against the respondents 4 to 11/defendants 1, 3-9 on the file of the learned Additional District Judge, Hosur. In the aforesaid suit, the plaintiffs filed I.A.No.263 of 2017 against the defendants under Order 1 Rule 10 (2) of CPC to implead the proposed parties as parties and proposed properties in the above suit. The trial Court has allowed the said application on 12.01.2018. Aggrieved by the said order, the petitioner/second defendant filed the Civil Revision Petition before this Court.

3.The learned counsel for the petitioner submitted that the

petitioner has no serious objection to implead the proposed parties only to include properties in the aforesaid suit. The Court below erroneously allowed I.A.No.263 of 2017 by impleading proposed parties and properties and the same is unsustainable in law. Therefore, the impugned order passed by the Court below is liable to be set aside.

4.The learned counsel for the respondents submitted that the petitioner/first defendant filed the application to implead the proposed parties and properties in the suit, as they are necessary to be included in the suit. The learned counsel further submitted that this Court may be allowed the Civil Revision Petition only in respect of the proposed properties and opportunity may be granted to the respondents before the Court below to raise his objections.

5.Heard, learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

6.Considering the aforesaid submissions made by the learned counsel for both sides and on a perusal of records, it is seen that the respondents filed an application in I.A.No.263 of 2017 to implead the proposed parties and properties in the said suit. To include the proposed properties is concerned, this Court has no hesitation to allow the Civil Revision Petition and inclined to pass the following order:

"(i)In respect of impleading proposed

parties, the order dated 12.01.2018 passed in I.A.No.263 of 2017 on the file of the learned Additional District Judge, Hosur is confirmed, in respect of including the proposed properties, the order dated 12.01.2018 passed in I.A.No.263 of 2017 is set aside.

(ii) Liberty is granted to the respondents to file an application before the Court below, if it is permissible under law, to include the proposed properties.

(iii) The Civil Revision Petition is partly allowed with the above observation. No order as to costs. Consequently, connected Miscellaneous Petition is closed."

13.03.2018

Index : Yes/ No

Speaking order/ Non speaking order

cla

To

The Additional District,
Hosur.

D. KRISHNAKUMAR J.,

cla



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