



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (PD) No.2199 of 2016

and

C.M.P. (MD) No.10177 of 2016

1.J.Shanthi

2.Subashree

3.Minor Jeyashree

... Petitioners / Respondents 4,7 & 8 /
Defendants 4,7 & 8

[Minor 3rd petitioner through her mother
and guardian, the 1st petitioner.]

/Vs./

1.Babu Ramanathan

... 1st Respondent / Petitioner/ Plaintiff.

2.Tamilarasi

3.Ankayarkkanni

4.Rathinammal

5.Padma

6.Sivakumar

7. The Thasildar,
Aruppukkottai,
Virudhunagar District.

8. The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.

... Respondents 2 to 8 / Respondents 1
to 3, 5, 6, 9 & 10 / Defendants 1 to 3, 5, 6, 9 and 10

Prayer: Civil Revision Petition - filed under Article 227 of the
Constitution of India, to set aside the Order dated 18.07.2016
made in I.A.No.77 of 2015 in O.S.No.4 of 2011 on the file of the
learned Subordinate Judge, Aruppukkottai and dismiss the petition.

For Petitioners	: Mr.S.Parthasarathy
For R-1	: Mr.V.Perumal
For R-2 to R-4, R-5 & R-7	: Exparte (vide EB)
For R-6	: No appearance

**ORDER**

O.S.No.4 of 2011 was filed by the first respondent herein seeking the relief of partition before the Sub Court, Aruppukottai. In the said suit, I.A.No.77 of 2015 was filed by the plaintiff for including four items said to have been left out inadvertently in the suit schedule. The said Interlocutory Application was allowed by the Court below. Questioning the same, the Civil Revision Petition came to be filed.

2. The learned counsel appearing for the revision petitioner pointed out that atleast one item that is now sought to be incorporated is a repetition of item 4.

3. He took this Court to the contents of the affidavit filed in support of the amendment petition. The plaintiff alleges that after the suit was filed, these four items were alienated in favour of one Rajkumar by a sale deed dated 28.02.2011. The suit was filed a few days earlier.

4. In such circumstances, without impleading the subsequent purchaser Rajkumar, it is not logical to include the sold out items alone.

5. The learned counsel for the plaintiff undertook to file an application for impleading the subsequent purchaser Rajkumar also.

6. This Court directs that such an amendment petition shall be filed, which shall not be later than four weeks from today. The Court below shall allow the same.

7. The learned counsel for the revision petitioner submits that they would not oppose the said application.

8. Since this is a partition suit and its maintainability can also be vulnerable on account of partial partition, the Court below was justified in allowing the amendment petition. There is no justification in interfering with the said order. However, to give quietus to the larger controversy, this Court directs the plaintiff to implead the subsequent purchaser also.

8. With the above directions, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.No Costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

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

Sub Assistant Registrar(CS-IV)



To

The Subordinate Judge,
Aruppukkottai.

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+1cc to Mr.S.Parthasarathy, Advocate SR.No.78657

+1cc to Mr.V.Perumal, Advocate SR.No.78609

Sm

MK/SV/SAR 4/11.09.2018/3P/4C

Order made in
C.R.P. (MD) (PD) No.2199 of 2016

Dated:
14.08.2018