



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (PD) (MD) No. 2596 of 2016

and

C.M.P. (MD) No. 12252 of 2016

WEB COPY

R. Manickam (Died)

1. Gomathy

2. Ramkumar

3. Meerakalyani

... Petitioners / Respondents / Plaintiffs

-vs-

1. A. Mayilvaganan

2. A. Nithyakalyani

3. D. Nallasivam

4. Subbumareeshwari

... Respondents / Petitioners

Proposed Defendants 8 to 11

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 08.11.2016 passed in I.A.No.290 of 2016 in O.S.No.209 of 2012 on the file of Additional Sub Court, Tenkasi.

For Petitioner : Mr. D. Nallathambi
for V. Meenakshisundaram

For Respondents : Mr. P. Gunasekaran
for K. Anand

ORDER

The revision petitioners are the legal heirs of the original plaintiff R. Manickam, who filed O.S.No.209 of 2012 on the file of the Additional Sub Court Tenkasi seeking relief of partition. The case projected in the plaint is that D1, Arumugam and D3, Thiyal Bagam had executed sale deeds in respect of some of the items of the suit schedule property. The respondents herein, who are the children of the D1 and D3 filed I.A.No.290 of 2016 for impleading themselves. Their contention is that their parents were not competent to execute such deeds. The Court below by order dated 08.11.2016 allowed the said application. The correctness of the said order is questioned in this Civil Revision Petition.

2. Heard the learned counsel on either side.

3. The learned counsel for the petitioner reiterated the ground set out in the memorandum and wanted this Court to set aside the order impugned in this Civil Revision Petition. This Court is unable to agree with the said submission. In the decision



reported in 2017 (9) SCC 700 [Pankajabhai Rameshbhai Zalavadiay Vs. Jethabhai Kalabhai Zalavadiya and others] the Hon'ble Supreme Court has held as follows:-

"17.The expression "to settle all questions involved" used in Order 1 Rule 10(2) of the Code is susceptible to a liberal and wide interpretation, so as to adjudicate all the questions pertaining to the subject-matter thereof. Parliament in its wisdom while framing this rule must be held to have thought that all material questions common to the parties to the suit and to the third parties should be tried once for all. The court is clothed with the power to secure the aforesaid result with judicious discretion to add parties, including third parties. There cannot be any dispute that the party impleaded must have a direct interest in the subject-matter of litigation. In a suit seeking cancellation of sale deed, as mentioned supra, a person who has purchased the property and whose rights are likely to be affected pursuant to the judgement in the suit is a necessary party, and he has to be added. If such purchaser has expired, his legal representatives are necessary parties."

4.The persons, who now wanted to get impleaded, are none other than the children of D1 and D3. Their contention is that the property is ancestral in character and therefore, D1 and D3 could not have executed such documents. Therefore, their presence is necessary for adjudication of all the issues raised in the suit.

5.Hence, I am of the view that the Court below was right in allowing the impleading petition. No case has been made out to interfere with the same. Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To:

The Additional Sub Court, Tenkasi.

+1cc to Mr.D.Nallathambi, Advocate Sr.No.78765

+1cc to Mr.R.Anand, Advocate Sr.No.78914

TA

VB/SV/SAR2/11.09.2018/2P/4C

C.R.P. (PD) (MD) No.2596 of 2016

14.08.2018