

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

CRP (NPD) NO.2317 OF 2019
AND CMP NO.15046 OF 2019

G.Senthilkumar

Petitioner

Versus

1.K.Subramanian

2.K.Dhandapani

S.Bharathamani

(Died by LRs Defendants No.13 to 18)

A.K.Arunachalam

(Died by LRs Defendants No.10 to 12)

3.Revathi

4.Jeyamani

5.Suseela

6.Rajammal

7.No.2 - Joint Sub Registrar

Raja Street,
Coimbatore - 641 001.

8.Devi Arunachalam

9.A.Kaniraj

10.A.Rukmani

11.B.Chandrasekar

12.B.Gunasekar

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13.B.Nagendran
 14.B.Saravanakumar
 15.B.Senthilkumar
 16.B.Anandhakumar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order passed in I.A.No.76 of 2018 in A.S.No.98 of 2015 on the file of the V Additional District Judge, Coimbatore, dated 20.02.2019.

For Petitioner : Mr.S.Gunalan

ORDER

Against the order of dismissal of a petition for impleading the legal representatives of the principal on the death of Power of Attorney Agent at the appeal stage, the present Civil Revision Petition is filed.

2. Perusal of the materials shows that the fourth defendant in the suit was described as a Power of Attorney of S.Sivabagyam, A.Selvaraj, Shanmugam, Revathi, Jayamani and Suseela. Curiously, the said Revathi, Jayamani and Suseela were impleaded as parties to the

suit, in their individual capacity, whereas the said Sivabagyam, Selvaraj, Vanaja and Padma were not arrayed as parties to the suit. During the pendency of the suit, the fourth defendant died and his legal heirs were brought on record as R10 to R12. The suit was dismissed for non-joinder of necessary parties. At the appellate stage, the petitioner filed a petition to implead them as parties to set right the defects. The Trial Court dismissed the petition.

3. Heard the petitioner.

4. A perusal of the plaint reveals that the fourth defendant, though described as Power of Attorney, he was arrayed as a party to the suit in his individual capacity. When few of the Principals were impleaded in their individual capacity, not represented by the fourth respondent, Power of Attorney, the other Principals were left out. Curiously, there are no averments against them and no cause of action said to have arisen against them. Without pleadings or prayer against the proposed parties, they cannot be considered as necessary parties, much less proper parties. The impleading petition, at the appellate stage has

been filed only because the suit was dismissed for non-joinder of parties and not for any valid reason that without their present, the issue cannot be decided. Since there is no valid reason for impleading them now as parties and since there is no explanation for not impleading them in the suit, despite having knowledge of their title, the petition is not maintainable. The finding of the Trial Court, though on a different factual background, need not be interfered for the above legal position.

5. The Civil Revision Petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

22.07.2019

Index : Yes/No
Internet : Yes/No
Speaking / Non speaking order
TK

To

The V Additional District Judge
V Additional District Court,
Coimbatore.

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M.GOVINDARAJ, J.

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