

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.2858 of 2019

and

CMP.No.18674 of 2019

Madurambal

... Petitioner

Vs.

1.Ezhumalai

2.Chinnaiyan

3.Chandrasekar

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the order and decretal order dated 30.01.2019 made in I.A.No.212 of 2018 in O.S.No.8 of 2016 on the file of the Court of the Additional Subordinate Judge, Tindivanam.

For Petitioner

: Mr.T.Dhanasekaran

ORDER

In a suit for partition, the respondents have come up with a case that by virtue of a previous partition, they got independent title over the property and it was sold to a third party. The plaintiff seeks to implead the subsequent purchaser. Even though the preliminary decree was not passed, the learned counsel for the petitioner would contend that since the third party interest is involved, it is necessary to implead him.

2. I have considered the submissions and perused the materials. On the face of it, the petitioner has not stated that by which document the suit property was partitioned and was sold to the third party. Further, in a partition suit, the right of parties shall be decided first. Only when some material evidence is produced to show that third party interest has been created the Court can take note of it. Without producing any document, the petitioner cannot implead strangers. Allotment of definite share shall be decided. Thereafter, only the third party interest will arise. Insofar as the matter is pending for passing preliminary decree, impleading of the third party, without any specific detail, is not required.

3. The trial Court has rightly dismissed the petition. However, it is made clear that it is open to the petitioner to bring the subsequent

purchaser at the time of passing of final decree for the purpose of allotting shares to the respective parties. The application as on date is pre-mature and hence, the Civil Revision Petition has no merit for consideration.

4. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.08.2019

bri

Index:Yes/No
Internet:Yes/No
Speaking Order/Non Speaking Order

To

The Additional Subordinate Judge,
Tindivanam.

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M. GOVINDARAJ, J.

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