

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(PD) No.3700 of 2013

A.Thangavelu

...Petitioner

..Vs..

Pavayammal (Died)

- 1.Maragatham
- 2.Sengodanadar
- S/o.Thandava Nadar
- 3.Sengodanadar
- S/o.Angappa Nadar
- 4.R.Palanivel
- 5.Ramasamy
- 6.Kandasamy
- 7.Chokkappan
- 8.R.Palanivel
- 9.K.Anbu
- 10.Chinnammal
- 11.M.Muthusamy
- 12.P.Ramesh
- 13.K.Lakshmanan
- 14.S.Jothilakshmi
- 15.K.Varathappan
- 16.R.Jayaprakash
- 17.M.Kirubakaran
- 18.V.R.Amudhavani
- 19.D.Elango
- 20.B.Gunasekaran
- 21.M.Amirtham
- 22.T.N.Mani
- 23.Pavayee

24.B.Annapurani
25.T.Kumathavalli
26.K.Rajendran
27.C.Ganeshan
28.R.M.Annamalai
29.L.Ramanathan
30.S.Arukani
31.S.Chinnusamy
32.P.Eswaramoorthy
33.E.Baithkodi
34.R.Rajavel
35.M.Krishnavel
36.T.Dineshkumar
37.S.Vinodh
38.S.Jothi

(Respondents 2 to 15, 17, 21, 26, 28, 31, 32, 35 to 38
remained exparte before the Trial Court. Hence,
notice may be dispensed with on them)

...Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order of the Additional District Judge (Fast Track Court) at Namakkal dated 08.02.2006 made in I.A.No.36 of 2005 in A.S.No.345 of 2002.

For Petitioners : Mr.P.Valliappan

For R2 to 15, 17, 21, 26, 28, 31, 32
35 to 38 : Set exparte before the Trial Court

For R1, 16, 18, 19, 20,
22, 23, 24, 25, 27, 29,
30, 33, 34 : No appearance

ORDER

The petitioner is the plaintiff in O.S.No.522 of 2008 on the file of the Sub-Court,Tiruchengode seeking relief of partition of 4/24 share in the suit property in Item No.I and II and 4/6 share in Item No.III. The second defendant filed a written statement. Thereafter, I.A.No.918 of 2011 was filed by the petitioner/plaintiff seeking to implead the purchaser from the second respondent.

2. Pending suit, in respect of the suit properties where the plaintiff is seeking share in the property, the proposed party 19 has filed a counter statement which was adopted by 10 and 14. The proposed party 11 as adopted by 20,22,23 and 26 whereby they have stated that they have resisted the claim that Section 52 of the Transfer of the Property Act will not come into operation.

3. On perusal of the order passed by the learned Trial Court, it is clear that the trial Judge has rendered a categorical finding that some of the suit properties are sold during the pendency of this case and in the event of any decree being passed, the same will certainly affect the subsequent sale and proposed parties.

4. The reason assigned by the learned Trial Judge is not sustainable in law as the proposed parties have purchased the property.

5. Pending suit, the number of lis pendens will come into operation and they have become necessary party for adjudication. Hence, the order passed by the learned trial Judge in I.A.No.918 of 2011 is set aside and the C.R.P is allowed.

6. The Registry is directed to send the order copy within a period of two weeks and the necessary amended copy has to be filed before the trial Court within a period of four weeks from the date of receipt of a copy of this order and the trial Court shall complete the trial on or before 12 weeks.

03.01.2020

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Index:Yes/No

Speaking Order:Yes/No

Note:Issue order copy on 07.01.2020

To

The Additional District Judge (Fast Track Court) at Namakkal

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RMT.TEEKAA RAMAN,J.,

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