

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: .05.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP. No.956 of 2018 and
CMP No.5105 of 2018

1. Radha Rukmani
2. Podhumani

.. Petitioners/Plaintiff

Vs.

1. Deenadayalan
2. Kusalakumari
3. Purushothaman
4. Sarala
5. Umamaheswaran
6. Parameswari
7. V. Subramanian
8. K. Krishnaraj
9. T. Padmanabhan
10. G. Rathina
11. O. Krishnaveni
12. Abdullapuram Panchayat,
Rep. By its President,
Abdullapuram,
Vellore Taluk, Vellore District.
13. Methagiri

... Respondents/Defendants 1 to 3

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreeal Order of the learned Principal District Judge, Vellore, dated 29.01.2018 in I.A.No.20 of 2017 in O.S.No.120 of 2013.

For Petitioners : Mr.S.Sivasubramanian

O R D E R

The plaintiffs in O.S.No.120 of 2013 have come up with this revision challenging an order in I.A.No.20 of 2017 refusing to implead the subsequent purchasers of the suit properties.

2. The suit in O.S.No.120 of 2013 is one for partition. Claiming that the proposed parties namely respondents 10 and 11 have purchased certain items of the suit properties, pending

suit, the plaintiffs filed an application seeking to implead them as necessary parties.

3. The trial Court dismissed the application concluding that being pendente lite purchasers, they are not necessary parties to the suit. Hence the revision.

4. Heard Mr.S.Sivasubramanian, learned counsel appearing for the appellants. The respondents though served, are not appearing either in person or through counsel duly instructed. The 1st respondent and the 12th respondent have remained exparte before the Courts below. Hence, notice to them is deemed unnecessary. Though the 7th respondent has died, he has also remained exparte before the Courts below. Hence, necessity to substitute his legal heirs is dispensed with.

5. Mr.S.Sivasubramanian, learned counsel appearing for the petitioners would contend that though the proposed parties are subsequent purchasers, as plaintiffs, it is always open to the petitioners to implead the subsequent purchasers to have an effective adjudication of the suit in their presence. A pendente lite purchaser also acquires certain rights which he can project in a suit for partition.

6. The Hon'ble Supreme Court has also time and again pointed out that when pendente lite purchasers are sought to be made parties it will be better for the Court to implead them and adjudicate the rights of the parties in their presence. I am, therefore unable to agree with the view taken by the learned Principal District Court, in dismissing the application concluding that the proposed parties being pendente lite purchaser cannot be impleaded. The learned District Judge should have seen that it is the plaintiffs who want their presence. The plaintiff being dominus litus is entitled to prosecute the suit against those persons who have an interest in the property. The pendente lite purchaser can also safeguard his interest by seeking allotment of the property purchased by him to his or her vendor.

7. In view of the above, the Civil Revision petition is allowed. The order impugned in the revision is set aside. I.A.No.20 of 2017 will stand allowed. The respondents 10 and 11 will stand impleaded as defendants 10 and 11 in the suit. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal District Judge,
Vellore, Vellore District.

+1cc to M/s.T.M.Hariharan, Advocate in Sr.26178

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VSN-II (CO)
RV (11/09/2020)



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