



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRP (MD)Nos.357 & 358 of 2020
and
CMP(MD)No.2055 of 2020

Vasuki .. Petitioner/ Petitioner/ Appellant
in both CRPs.
Vs.

Seeniammal (died)
1.A.Rengaraj
2.A.Seenivasan
3.Sakunthala ... Respondents/ Respondents/
Respondents/ Respondents
in both CRPs.

Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and executable orders dated 21.01.2020 made in I.A.Nos.22 and 23 of 2018 in A.S.No.18 of 2017 passed by the Sub Judge, Periyakulam.

For Petitioner : No appearance

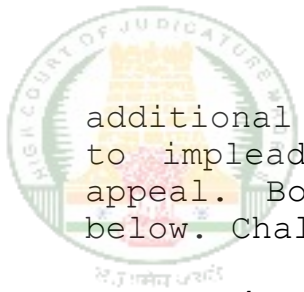
For Respondents : Mr.R.Raja

COMMON ORDER

Challenging the orders dated 21.01.2020 passed in I.A.Nos.22 and 23 of 2018 in A.S.No.18 of 2017 by the Sub Judge, Periyakulam, these Civil Revision Petitions have been filed.

2.None appeared on behalf of the petitioner.

3.The petitioner/plaintiff has filed a suit against the respondents/defendants in O.S.No.131 of 2012 on the file of the District Munsif Court, Periyakulam. The said suit was dismissed. Challenging the judgment and decree, the petitioner herein filed an appeal in A.S.No.18 of 2017 on the file of the Sub Court, Periyakulam. During pendency of the said appeal, the petitioner/appellant filed two applications, one is under Order 41 Rule 27 CPC to receive the documents mentioned in the application as



additional evidence and the another one is under Order 1 Rule 10 CPC to implead the proposed parties as respondents 4 to 26 in the appeal. Both the applications have been dismissed by the Court below. Challenging the same, these revisions have been filed.

4.It is seen from the records that during pendency of the appeal, an application in I.A.No.22 of 2018 was filed under Order 41 Rule 27 CPC to receive additional evidence. That application was independently dealt with by the Sub Judge, Periyakulam and ultimately it was dismissed. This Court is of the view that the said finding is against the proposition of law. If any application is filed under Order 41 Rule 27 CPC to receive additional evidence, that application should be dealt with along with the main appeal. The Hon'ble Supreme Court, has time and again given ratio that any application is filed to receive additional evidence during pendency of the appeal, that application should be dealt with along with the appeal and the appeal should be disposed of along with that application. Therefore, under these circumstances, the course adopted by the appellate Court is not in accordance with the law laid down by the Hon'ble Supreme Court. Therefore, CRP(MD)No.357 of 2020 is allowed and the order passed in I.A.No.22 of 2018 in A.S.No.18 of 2017 dated 21.01.2020 is set aside and I.A.No.22 of 2018 is remanded back to the appellate Court. The appellate Court is directed to deal with I.A.No.22 of 2018 along with the appeal and dispose of appeal along with I.A.No.22 of 2018 in accordance with law. No costs. Consequently, CMP(MD)No.2055 of 2020 is closed.

5.I.A.No.23 of 2018 is filed Order 1 Rule 10 CPC to implead the proposed parties mentioned therein as respondents 4 to 26 in the appeal. The proposed parties are only the subsequent purchasers from one of the co-owners. Therefore, they may not have any independent right over the suit property and whatever the right they are claiming, they can very well work out the same through their vendor and they need not be impleaded, that too in the appeal stage. Under these circumstances, there is no need to interfere with the order passed by the appellate Court in I.A.No.23 of 2018. Therefore, CRP (MD)No.358 of 2020 is liable to be dismissed and accordingly it is dismissed. No costs.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar



To

The Subordinate Judge, Periyakulam

+2 CC to M/s.R.SURIYANARAYANAN, Advocate, Sr Nos.12490,12491

+3 CC to M/s.R.RAJA, Advocate, Sr Nos.12391,12392,12406

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