

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.3872 of 2015

and

MP.No.1 of 2015

S.R.Palanisamy

... Petitioner

Vs.

1. Sakunthala
2. Dhanalakshmi
3. Sarojini
4. Maheswaran
5. Saravanan
6. Gayathri

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 16.06.2015 made in I.A.No.627 of 2014 in I.A.No.562 of 2012 in O.S.No.174 of 2009 on the file of the learned Sub Judge, Perundurai by allowing this Civil Revision Petition before this Court.

For Petitioner : Mr.N.Manokaran

For Respondents : Notice Served (No Appearance)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.627 of 2014 in I.A.No.562 of 2012 in O.S.No.174 of 2009 dated 16.06.2015 on the file of the learned Sub Judge, Perundurai, thereby, dismissing the petition filed by the petitioner to implead himself as a party in the final decree application.

2. The respondents 1 to 4 filed a suit for partition as against the respondents 5 and 6. By the judgment and decree dated 01.07.2010, the suit was decreed, in which the 6th respondent herein was allotted 1/6th share in respect of the suit property. However, the petitioner purchased the share of the 6th respondent herein by the registered sale deed dated 17.02.2009. After the preliminary decree, the respondents 1 to 4 filed final decree application in I.A.No.562 of 2012. While pending the final decree application, the petitioner filed a petition to implead himself as a party, on the strength of the sale deed dated 17.02.2009.

3. The learned counsel for the petitioner relied upon the judgment reported in 1999 (2) SCC 577 (*Savitri Devi -vs- District Judge*), whereas,

the Hon'ble Apex Court held as follows:-

“9. Order I Rule 10 CPC enables the court to add any person as a party at any stage of the proceedings if the person whose presence before the court is necessary in order to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of a multiplicity of proceedings is also one of the objects of the said provision in the Code.”

4. Though notice was served on the respondents and the name is also printed in the cause list, no one appeared on behalf of the respondents. Heard the learned counsel for the petitioner.

5. In the case on hand, admittedly, the petitioner purchased the share of the 6th respondent herein by the registered sale deed dated 17.02.2009. Whereas, the trial Court dismissed the petition for the reason that the petitioner did not produce the sale deed, which was executed by the 6th respondent in respect of her share. Therefore, for effective and complete adjudication the petitioner has to be impleaded as a party in the final decree application, since, he purchased the share of the 6th respondent herein by the registered sale deed dated 17.02.2009.

G.K.ILANTHIRAIYAN,J.

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6. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in I.A.No.627 of 2014 in I.A.No.562 of 2012 in O.S.No.174 of 2009 dated 16.06.2015 is set aside on the condition that the petitioner shall produce the sale deed dated 17.02.2009 in the final decree application. Consequently, the connected Miscellaneous Petition is closed. No costs.

24.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The Sub Judge, Perundurai.

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