

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2021

CORAM:

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

**C.R.P (PD) No.1587 of 2018
and
CMP.No.8580 of 2018**

1. Ayyanar
2. Harigovindan
3. Amsavalli
4. Ravi
5. Karunakaran
6. Suresh
7. Subramanian
8. Rajangam
9. Thirumalai

... Petitioners

Vs.

1. Gopu
2. Gopalakrishnan
3. Chitra
4. Rajangam
5. Devaki Ammal

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order in I.A.No.42 of 2018 in O.S.No.196 of 2011 dated 22.03.2018 on the file of the learned 2nd Additional Subordinate Judge, Villupuram and thereby allow the revision.

For Petitioners : Mr.N.Suresh

For Respondents : M/s.P.Bhavana
: for Mr.P.Vasanth (for R-1 to R-3)
: Notice Served (No Appearance)
(for R-4 and R-5)

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.42 of 2018 in O.S.No.196 of 2011 dated 22.03.2018 on the file of the learned 2nd Additional Subordinate Judge, Villupuram, thereby dismissing the petition to implead themselves as parties to the suit proceedings.

2. The petitioners are the proposed parties in the suit filed by the respondents 1 to 3 herein for partition. There are totally 3 defendants in the suit. A perusal of the averments in the affidavit filed in support of the impleading petition would reveal that the first petitioner has purchased some extent of the properties from the deceased first defendant and the third to ninth petitioners have purchased house plots from the second petitioner who had established the same in the 11th item of the suit schedule properties. The Court below dismissed the petition only on the ground that the petitioners belong to the same village and even knowing

about the pendency of the suit for partition, they purchased the suit properties while the suit is pending. In support of his contentions, the learned counsel for the petitioner relied upon the judgment of this Court reported in 2015 (4) CTC 293 (**Devaki Thiyagarajan -vs- Ahamed**), it is held as follows:-

“61. In so far as this Appeal is concerned, we understand that the real fight is between the Appellant/proposed 5th plaintiff and the First Respondent/D5.

62. The object of the Order 1, Rule 10(2), C.P.C to implead a third party to the Suit is that the dispute in the Suit would be resolved in the presence of all, in Order to avoid multiplicity of proceedings.

63. Under Order 1, Rule 10, C.P.C a party would become necessary party or proper party if he is having any interest over the subject matter of adjudication under the Suit and then he can be impleaded.”

3. In the case on hand, while pending the suit, the petitioners have purchased some of the item of the suit properties from the first defendant. Therefore, they are necessary and proper parties to the present suit and it would avoid the multiplicity of proceedings.

G.K.ILANTHIRAIYAN.J.,

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4. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in I.A.No.42 of 2018 in O.S.No.196 of 2011 dated 22.03.2018 is hereby set aside. Consequently, the connected Miscellaneous Petition is closed. No costs.

17.06.2021

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Index : Yes/No
Internet : Yes/No
To

1. The 2nd Additional Subordinate Judge, Villupuram.
2. The Section Officer,
V.R. Section, High Court of Madras.

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