



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.1067 of 2021

and

C.M.P.No.8454 of 2021

U.Abubakker

... Petitioner

Vs

1.Shanma
2.Usha Jivani Begam
3.Basheer Ahmed
4.Samsudeen
5.Sakila Banu
6.Sharmila Banu
7.Babu
8.Jehara
9.Chotima Bee
10.Musthiri John
11.Siddiq
12.Noorjahan
13.Rabi Ahmed
14.Pyrose
15.P.Ramasamy

16.Sri Kumaran & Co.
D.No.122-A1, Paramathi Road,
Namakkal Town, Namakkal District,
By now Executive Partner,
P.Senthilkumar, S/o Periasamy
D.No.354, Paramathi Main Road,
Sandaipettai Pudur,
Namakkal Town.

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 17.02.2021 in I.A.No.1 of 2019 in O.S.No.30 of 2016 on the file of the Additional District Judge, Namakkal.

For Petitioner : Mr.D.Sivakumar.

For Respondents : Mr.M.Guruprasad for R1 to R8.
Mr.I.Abrar Md.Abdullah for R16.



O R D E R

This Civil Revision Petition has been filed challenging the order passed on 17.02.2021 in I.A.No.1 of 2019 in O.S.No.30 of 2016 on the file of the Learned Additional District Judge, Namakkal.

2.It is seen from the records that I.A.No.1 of 2019 was filed under Order I Rule 10 read with Section 151 of Civil Procedure Code for impleading the Petitioner as Tenth Plaintiff in the Suit. The Suit in O.S.No.30 of 2016 was filed by the Plaintiffs 1 to 9 against the Defendants 1 to 8 seeking relief of partition of the Suit property into 56 equal shares and allot 16 shares to the Plaintiffs.

3.The Learned Counsel for the Petitioner submitted that during the pendency of the Suit, some of the Plaintiffs and Defendants have sold their respective undivided share to the Defendants 7 and 8 and also to the Petitioner herein. When it was informed about the purchase made by the Defendants 7 and 8 in respect of undivided share on 15.02.2016 and 18.02.2016, they have been impleaded as Defendants in the Suit.

4.It is the submission of the Learned Counsel for the Petitioner that Petitioner has purchased a portion of the undivided share on 16.12.2016 and on 12.01.2017 from the Defendants 5 and 6 respectively. Therefore, he is a proper and necessary party for the adjudication of the Suit. The Learned Additional District Judge, without considering the necessity and the presence of the Petitioner for the disposal of the Suit, dismissed the Petition. Against the said dismissal order, this Civil Revision Petition has been filed praying for setting aside the said order by allowing this Petition.

5.The Learned Counsel for the Respondents 1 to 8 and 16 submitted that the Petitioner has purchased the undivided share during the pendency of the Suit. Subsequent purchaser, pending Suit, of the Suit property is not a necessary party to the Suit and moreover, the Petitioner is not a bonafide purchaser and hence, prayed for dismissal of this Petition.

6.It is seen from the rival submissions made by the parties that the Defendants 7 and 8 had purchased the undivided share of the Suit property after the filing of the Suit and they have been impleaded as Defendants in the Suit. It is true that if the purchasers subsequent to the Suit are sought to be impleaded one after the other, there may be no end to this process and the litigation may prolong forever.



7. However, considering the fact that the Suit is for partition and the fact that some of the Plaintiffs and Defendants have sold the undivided share of the Suit property to the Petitioner, this Court is of the considered view that the presence of the Petitioner is proper and necessary for effective adjudication of the Suit. Most importantly, to avoid unnecessary multiplicity of proceedings, this Court is of the view that the Petitioner has to be impleaded as Tenth Plaintiff in the Suit. Hence, the Order of the Learned Additional District Judge, Namakkal in I.A.No.1 of 2019 in O.S.No.30 of 2016 is set aside and the said Application is allowed.

8. Resultantly, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ay

To

The Additional District Judge,
Namakkal.

Copy to :

The Section Officer,
V.R.Section,
High Court,
Madras.

+1cc to Mr.Guruprasad, Advocate Sr No.48681
+1cc to Mr.D.Shivakumaran, Advocate Sr No.48664
+1cc to M/s.I.Abrar, Advocate Sr No.49200

C.R.P.No.1067 of 2021
and
C.M.P.No.8454 of 2021

MG (CO)
PR (25/10/2021)