



CRP (PD) No.2472 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2472 of 2021
and CMP No.18706 of 2021

M. Kulandaivel

... Petitioner

Vs

1. M.Ramya

M.Nallathambi, (Died)

2. Rani

3. Siyamala

4. Minor Meivel

5. Minor Keerthika

6. Minor Kaviya,

Minor Nos.4 to 6 are represented
by their Natural Guardian and
Mother Siyamala

... Respondents

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Decreetal order, dated 17-09-2021 made in I.A.No.02 of 2019 in O.S. No.364 of 2012 passed by the Additional District Munsif, Tiruchengode, Namakkal District.



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For Petitioner : Mr.N.Vijaya Basker

For Respondents : Mr.L.Mouli
for Caveator

ORDER

The challenge in this Civil Revision petition is to an order of the Additional District Munsif, Tiruchengode, dated 17.09.2021 made in I.A.No.2 of 2019, an application filed by the petitioner under Order I rule 10 (2) of C.P.C., seeking to implead himself in a Suit for partition filed by the first respondent herein, against the respondents 2 to 6.

2. The first respondent claiming that the property belonged to her father viz., K.M.Mani and that she is a coparcener along with her father K.M.Mani and her brother late M.Nallathambi, has filed the above Suit seeking partition. The Suit is pending. The petitioner would claim that he has purchased the Suit property on 09.07.2014 from one Kulandhaivel, who in turn purchased the property on 12.11.2012 from one Palanivel, who in turn has purchased the property from Nallathambi who was the first defendant in OS No.364 of 2012. Therefore, the petitioner sought for impleading himself in the Suit for partition, contending that he being the



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purchaser of the property from one of the shares, he is entitled to protect the share.

3. This application was resisted by the respondents contending that the sale in favour of the petitioner being a *lis pendens* sale, the petitioner cannot be deemed to be a necessary or proper party to the suit. Yet another supervening event which is projected by the respondents was that the 4th respondent in the revision minor Meivel had filed a suit in O.S.No.369 of 2012, contending that his father Nallathambi / vendor of the vendor of the petitioner has settled the property on him under the valid settlement deed, dated 28.07.2010. The said Nallathambi chose to unilaterally cancel the said settlement under the document dated 02.09.2011. Soon thereafter, the 4th defendant herein represented by his next friend mother, filed a suit, seeking to declare that the plaintiff's title under the Settlement deed. The said suit came to be decreed on 27.11.2018. Thus the vendor of the petitioner S.M.Palanivel, who was the 2nd defendant in the said suit, himself has last title upon the decree being passed in O.S.No.369 of 2012. Therefore, the petitioner cannot either be a necessary party or a



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proper party to the suit for partition. I, therefore see no reason to interfere with the conclusions of the trial Court in dismissing the application. I do not see any merits in the revision. The Revision therefore fails and it is accordingly dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

24.11.2021

vum

Index: Yes/No

Speaking order / Non speaking order

To:

The Additional District Munsif,
Tiruchengode,
Namakkal District.



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R.SUBRAMANIAN, J.

vum

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