



CRP (PD) No.2500 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2500 of 2021
and CMP No.18842 of 2021

M. Kathirvel

... Petitioner

Vs

1. Alamelu
2. R.Mathavan
Chinnarajakonar (Died)
Shanmughasundaram (Died)
Rajamanickam Ammal (Died)
3. K.Selvi

... Respondents

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India, to call for records and quash the order, dated 30.09.2021 made in I.A. No.10 of 2021 in O.S. No.102 of 2004, on the file of the III Additional District Court, Salem.

For Petitioner : Mr.D. Baskar

For Respondents : Mr. D.M. Senthil Kumar
for R3 (Caveator)



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ORDER

This Revision has been filed against the dismissal of the application filed by the Petitioner seeking to implead himself as a party in a suit for partition in O.S. No.102 of 2004.

2. Though several grounds were alleged in the defence filed by the petitioner, the main ground, on which, the learned Trial Judge dismissed the application is that the earlier application filed by the petitioner seeking the very same relief of impleading in I.A. No.163 of 2017 was dismissed on 12.04.2017 and the said order has become final. Therefore, the present application for impleading, being the second application, is barred by principles of *res judicata*. I do not find any reason to interfere with the said conclusion.

3. Mr.D.Baskar, learned counsel appearing for the petitioner would submit that while disposing of the earlier order in I.A. No.163 of 2017, the trial Court did not consider the case of the petitioner properly. It is not open to a litigant to contend that the order is erroneous and hence it will not operate as *res judicata*. It was open to the petitioner to challenge the order in I.A. No.163 of 2017.

Having not challenged the earlier order in I.A.No.163 of 2017, he cannot



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file the subsequent I.A, seeking the very same relief on the ground that the earlier order is wrong. Hence the Revision fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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vum

Index: Yes/No

Speaking order / Non speaking order

To:

The III Additional District Court, Salem.

R.SUBRAMANIAN, J.

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