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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)NOS.2846, 2847 & 2851 OF 2021

AND

CMP.NOS.20635 & 20642 OF 2021

Ramasamy

...Petitioner in all three revisions

Vs.

1.Munusamy

2.Narayanasamy

3.Akkaiyammal

4.Abbiah

5.Munirathina

6.Kandha

7.Nethra

8.Sunandha

9.Popjohn

10.Vazeer

11.Thoulath Sheriff

12.Rajendran

13.Veerabathira

...Respondents in all three revisions

Common prayer : Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and final orders passed in IA.Nos.2 & 3 of 2019 and 4 of 2021 in OS.Nos.62 of 2019 dated 28.09.2021 passed by the learned Additional District Judge, Hosur.

For Petitioners

in all three revisions : Mrs.R.Aparna

C O M M O N O R D E R

The petitioner, aggrieved by the dismissal of his applications in IA.Nos.2 & 3 of 2019 filed under Order 1 Rule 10 (2) of CPC to implead himself in the suit and the injunction



application and IA.No.4 of 2021, seeking leave to produce documents has come up with these revisions.

2. According to the petitioner, the suit properties belonged to him as declared by the Court in OS.No.298 of 2004 by its judgment dated 09.11.2011 and the suit in OS.No.62 of 2019, being a suit for partition of the properties that were subject matter of OS.No.298 of 2004 he is an interested person in the suit.

3. The claim was resisted by the defendants contending that neither the plaintiff nor the defendants in OS.No.62 of 2019 were parties to the suit in OS.No.298 of 2004. It was also contended that the suit in OS.No.298 of 2004 was filed by the petitioner herein as a general power agent of Elamma, Munikrishna, Manju, Ellamma and Sundaramma, seeking declaration of their title. Therefore, the petitioner in his individual capacity has no locustandi to seek impleading in the partition suit. It was also claimed that the general power of attorney that was given to the petitioner was cancelled as early as on 19.11.2019 under a registered instrument. Therefore, the petitioner is not a necessary party to the suit. The Trial Court accepted the defence and dismissed the suit.

4. Mrs.R.Aparna, learned counsel appearing for the petitioner would vehemently contend that only if the properties available, a suit for partition would be maintainable. According to her, since the properties have been sold, the suit for partition would not lie. It is for the parties to the suit for partition to work out their rights. Once it is found that the petitioner has no right over the property, he has no locostandi to seek impleading in the partition suit. The petitioner had filed a suit as the power agent of some persons and had obtained a decree in their favour. It is for those persons to ascertain their rights. The petitioner is not asserting their right as a power agent. He wants to implead himself as a party in his individual capacity, which is not possible. Hence, I do not see any merit in these revisions. These civil revision petitions therefore, fail and they are accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

kkn



To:-

The Additional District Judge,
Hosur.

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+3ccs to Mr.R.Jayaprakash, Advocate Sr.No.69369, 69370, 69371

C.R.P(PD)Nos.2846, 2847 & 2851 of 2021
and
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PA(CO)
RVM(31/01/2022)