

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

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

**CRP.NPD.No.3548 of 2017 &
CMP.No.16411 of 2017**

Vadivel, S/o.Munusamy Petitioner
Vs.

1. Veerappan, S/o. Late Radhakrishnan
2. Haridoss Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed in I.A.No.232 of 2014 in I.A.No.215 of 2012 in O.S.No.3 of 2010 before the District Munsif Court, Thiruvallur, dated 11.01.2017.

For Petitioner : Mr.K.Balaji
For Respondent : No appearance

ORDER

सत्यमेव जयते

This Civil Revision Petition is directed as against the order passed in I.A.No.232 of 2014 in I.A.No.215 of 2012 in O.S.No.3 of 2010 dated 11.01.2017 on the file of the District Munsif Court, Thiruvallur, thereby allowing the petition to implead the first respondent herein as the party in

the final decree proceedings.

2. The petitioner is the plaintiff and the second respondent is the defendant. The petitioner filed a suit for partition in O.S.No.3 of 2010 and the same was duly contested by the second respondent and decreed by the judgment and decree dated 13.09.2010. Pursuant to the preliminary decree, the petitioner filed an application to pass final decree in I.A.No.215 of 2012 and in the said application, the court below appointed an Advocate Commissioner and he also filed a report. At this juncture, the first respondent filed a petition to implead him as party to the final decree proceedings. He claims that he is the brother of the second respondent and their father and the petitioner's father are brothers.

3. The learned counsel for the petitioner contended that in respect of the suit property, the patta was granted in favour of the petitioner and the second respondent alone and as such, though the first respondent is the brother of the second respondent, he has no right or title over the property and he is not entitled to any share. The Court below rightly allowed the petition for the reason that the final decree proceedings is nothing but continuation of the suit for partition. Till the passing of final decree, it has

to be considered as pending suit. As per Order 1 Rule 10(2) of the Code of Civil Procedure, a necessary party can be impleaded in the suit at any stage of proceedings. Therefore, admittedly, the first respondent is none other than the brother of the second respondent. Whether he is having share over the suit property or not, is to be decided in the final decree proceedings. On that score, the court below allowed the application and impleaded the first respondent as party to the final decree proceedings. Therefore, this Court finds no infirmity or illegality in the order passed by the court below.

4. Therefore, this Civil Revision Petition stands dismissed. However, the suit is of the year 2010 and therefore, the court below is directed to dispose of the suit in O.S.No.3 of 2010 pending on the file of the District Munsif Court, Thiruvallur, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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01.04.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The District Munsif Court,
Thiruvallur.



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