

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P. (PD) No.3073 of 2018
and C.M.P.No.17780 of 2018

1. Chitambaram
2. Thangarasu
3. Selvi
4. Velmurugan

..... Petitioners

Vs

1. Sampath
2. Pushpa
3. Gopal
4. Bhakkiyam

..... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 16.03.2018 made in I.A.No.535 of 2017 in O.S.No.110 of 2012 on the file of the learned Subordinate Judge, Attur.

For Petitioners : Mr.T.Ganesan
For R1, R3 & R4 : Mr.A.E.Ravichandran
For R2 : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 16.03.2018 made in I.A.No.535 of 2017 in O.S.No.110 of 2012 on the file of the learned Subordinate Judge, Attur, thereby dismissing the petition to implead the third respondent as one of the defendant.

2. The revision petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed a suit in O.S.No.110 of 2012 for partition and permanent injunction in respect of the suit property. The suit was filed in the year 2012. In the year 2013, the petitioners filed a petition to not press the suit claim against the third respondent herein and the same was allowed, consequently the suit was dismissed as against the third respondent herein. After cross-examination of both side witnesses, when the suit was posted for arguments, the petitioners filed a petition in I.A.No.535 of 2017 to implead the third respondent herein as the third defendant in the suit.

3. A perusal of the affidavit filed in support of the implead petition reveals that when the matter was posted for arguments, while

verifying the bundle, they came to understand that the portion of the suit property was purchased by the third respondent and as such he is in possession of the said property and therefore, he is a necessary party to the suit. Admittedly, when the suit was posted for arguments on either side, after a period of five years from the date of the suit, they filed an application to implead the third respondent as one of the defendant. That apart, the patta produced along with the petition shows that it was issued even at the time of filing the suit itself i.e., on 22.08.2012. Therefore, the Court below rightly dismissed the petition.

4. In view the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

29.07.2021

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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C.R.P. (PD) .No.3073 of 2018

G.K.ILANTHIRAIYAN.J,

Lpp

To

1.The Subordinate Judge,
Attur.

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



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