



WEB COPY

C.R.P.(PD) (MD) No.1862 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(PD) (MD) No.1862 of 2021

and

C.M.P.(MD) No.9984 of 2021

Karunakaran (Died)

P.Selvaraj

.. Petitioner/2nd Petitioner/
2nd Plaintiff

(For himself and on behalf of the inhabitants
of Karachivilai Hamlet, who have interest in
Karachivilai Sreekandan Sastha Samuga Seva
Sangam, Athencode, Athencode Village,
Vilavancode Taluk, Kanyakumari District)

-vs-

1.Karachivilai Sreekandan Sastha Samuga
Seva Sangam, Rep., by its Secretary,
Sarasappan.

2.Bharathi Sankar

3.Sathiadhas

4.Jayakumar

.. Respondents 1 to 4/
Respondents 1 to 4/
Defendants 1 to 4

Prayer :- Petition filed under Article 227 of the Constitution of India to call for the fair and decreetal order dated 19.12.2020 passed in I.A.No.1 of 2020 in O.S.No.192 of 2013 on the file of the Subordinate Judge, Kuzhithurai and set aside the same.

For Petitioner : Mr.B.Christopher

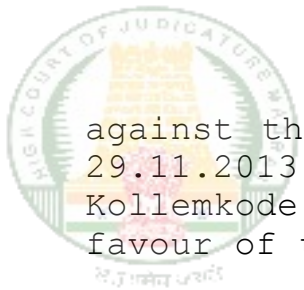
ORDER

The 2nd plaintiff is the petitioner before this Court challenging the dismissal of his application filed under the provisions of Order 22 Rule 3 Civil Procedure Code to implead as additional 3rd plaintiff the legal representative of the deceased 1st plaintiff and rank her as the 3rd plaintiff in the suit.

2.The brief facts are as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>

2.1.The petitioner/2nd plaintiff and the deceased 1st plaintiff had filed the suit in O.S.No.192 of 2013 on the file of the Subordinate Judge, Kuzhithurai, in a representative capacity



against the defendants seeking to set aside the Sale Deed, dated 29.11.2013 registered as Document No.3076 on the file of the Kollemkode Sub Registrar's Office executed by defendants 1 to 3 in favour of the 4th defendant as null and void.

2.2.The petitioner would submit that the suit schedule property belonged to the 1st respondent, Seva Sangam and the plaintiffs are the beneficiaries and the Sangam is having an interest thereon. Defendants 1 to 3, who had no right to sell the suit property belonging to the Sangam, had created a fraudulent and collusive sale in favour of the 4th defendant and on the basis of this fraudulent document, the 4th defendant was attempting to enter the property. The Sangam had been started with a noble object of meeting the welfare of the inhabitants of the Karachivilai Hamlet. The Sangam has started a Children's Care Centre, a Tailoring Centre, a Mini Health Centre, classes for the under privileged etc. Therefore, the beneficiaries are the public and therefore, they have an interest in the functioning of the 1st respondent-Sangam as well as its properties.

3.Pending suit, the 1st plaintiff died and an application was moved in I.A.No.1 of 2020 to implead the wife of the deceased 1st plaintiff as his legal representative and as the 3rd plaintiff in the suit. The application was dismissed holding that the same was moved at the time when the suit was at the stage of cross examination of D.W.1. The only ground on which the wife of the 1st plaintiff sought to be impleaded is on account that she is an Executive Committee Member. Admittedly, besides the proposed parties, there are other Executive Committee members as well. Challenging the same, the 2nd plaintiff is before this Court.

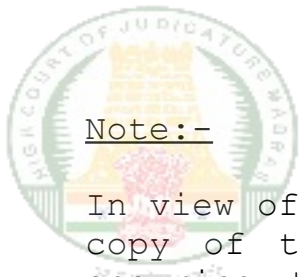
4.Be that as it may, as rightly pointed out by the Court below, the 2nd plaintiff is adequately representing the interest of the property in general and there was no necessity to bring the 1st plaintiff's wife on record, since the suit is a representative capacity suit. Therefore, the orders of the learned Subordinate Judge, Kuzhithurai dated 19.12.2020 passed in I.A.No.1 of 2020 in O.S.No.192 of 2013 does not require any re-consideration and is accordingly, confirmed.

5.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //



Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The Subordinate Judge, Kuzhithurai.

+1 CC to M/s.B.CHRISTOPHER, Advocate (SR-35993[F] dated 26/11/2021)

C.R.P.(PD) (MD) No.1862 of 2021

Dated: 26.11.2021

RK(16/12/2021) 3P 3C