



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P.(MD)No.1603 of 2021
and
C.M.P.(MD).No.8697 of 2021

D.Chellam

... Petitioner/Third Party/
6th Addl.Defendant.

Vs.

1. K.T.Nicholas
2. K.T.Thomas
3. K.T.Thomas (Jr)
4. K.T.Paul
5. K.T.George
6. K.T.Sebastin
7. K.T.Joseph
8. K.T.John
9. K.T.Abraham
10. K.T.Lazer
11. N.Vallinayagam
12. V.N.Sundaram
13. R.Rajendran
14. K.Valliammal
15. Vallinayagam Pillai

...Respondents/Respondents/
Plaintiffs

Respondents 11 to 15 are exparte Before
the trial court, so notice is not required.



PRAYER: Civil Revision Petition is filed under Article 115 of Constitution of India, against the fair and decreetal order dated 09.08.2021 in I.A.No.3/2019 in O.S.No.104 of 2006 on the file of the First Additional Subordinate Judge, Nagercoil.

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For Petitioner : Mr.C.Sankar praksh

ORDER

This Civil Revision Petition has been filed against the dismissal of the petition, seeking to implead the petitioner as a necessary party in the suit.

2. The learned counsel for the petitioner would submit that O.S.No.104 of 2006 has been filed by the plaintiffs before the Principal Sub Court, Nagercoil, against the defendants for partition. The defendants, during the pendency of the suit, have entered into an agreement for sale in respect of a portion of the suit scheduled property during the year 2010. Since the rights of the petitioner is involved in the suit, the petitioner had filed a petition seeking to implead him as a necessary party, whereas, the learned Sub Judge, holding that the petitioner has not filed any proof to show that there was such an agreement, had dismissed the petition. Against which, the present Civil Revision Petition has been filed.

3. Heard the learned counsel appearing for the petitioner and perused the material on record.

4. The suit has been filed for partition in the year 2006. The petitioner who claims to be an agreement holder with the defendant in respect of the portion of the suit scheduled property has come up with the petition to implead him as necessary party in the suit.

5. In the opinion of this Court, the rights of the petitioner is only subservient to the rights of the defendant. More so, the petitioner is only an agreement holder who had entered into an agreement in the year 2010 during the pendency of the suit. The Trial Court holding that the petitioner has not produced any documentary evidence to prove the agreement, had dismissed the petition.

6. This Court is of the further opinion that in the facts of the case even if the petitioner had produced the documentary evidence he will not have the right to implead in the suit. The petitioner is not at all necessary party. The Trial Court had rightly dismissed the petition.



7. I do not find any error or infirmity in the order passed by the Trial Court, hence this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

kmm

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 First Additional Subordinate Judge,
Nagercoil.

C.R.P. (MD) No.1603 of 2021
27.10.2021

RK/PM(18/11/2021) 3P 2C