



C.R.P.No.331 of 2020
and C.M.P.Nos.1719 of 2020 & 18873 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

C.R.P.No.331 of 2020

and

C.M.P.Nos.1719 of 2020 & 18873 of 2022

1.Mangammal

2.K.Mallikarjunan

3.K.N.Pandian

... Petitioners

Vs.

1.Thulasiammal

2.Uma Maheswari

3.V.K.Dhandapani

4.Sudha

5.V.S.Raja

6.The Tahsildar,
Pallipet, Pallipet Taluk,
Tiruvallur District.

7.The Sub Registrar,
R.K.Pet, Pallipet Taluk,
Tiruvallur District.

8.V.M.Jaganathan

... Respondents



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Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 04.11.2019 passed in I.A.No.1 of 2019 in O.S.No.111 of 2018 on the file of the learned I Additional District Court, Tiruvallur.

For Petitioners : Mr.V.Venkatesan
for Mr.G.Mutharasu

For RR1 to 5 & 8 : Mr.L.Damodaran

For RR6 & 7 : Mr.P.Harish, GA (CS)

ORDER

The revision petition is filed challenging the fair and decreetal orders dated 04.11.2019 passed in I.A.No.1 of 2019 in O.S.No.111 of 2018 on the file of the learned I Additional District Court, Tiruvallur.

2.The revision petitioners/plaintiffs filed the suit for partition of the suit properties against the respondents/defendants. During the pendency of the suit, the revision petitioners/plaintiffs filed a petition in I.A.No.1 of 2019 under Order I Rule 10(2) of the Code of Civil Procedure praying to implead one V.M.Jagannathan, son of late V.G.Pattu



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Munusamy Mudaliar, as eighth defendant in the suit. The respondents 1 to 4/defendants 1 to 4 filed their counter and after full contest, learned I Additional District Judge, Tiruvallur, vide her orders dated 04.11.2019, dismissed the said petition. Challenging the same, the present Civil Revision Petition is filed.

3. Heard Mr.V.Venkatesan, learned counsel appearing for the revision petitioners, Mr.L.Damodaran, learned counsel appearing for the respondents 1 to 5 & 8 and Mr.P.Harish, learned Government Advocate (CS) appearing for the respondents 6 & 7.

4. Mr.V.Venkatesan, learned counsel for the revision petitioners would contend that since the proposed respondent is no more, the revision petitioners may be given an opportunity to implead the legal heirs of the deceased proposed party. A perusal of the records shows that the plaintiffs wanted to implead the proposed respondent / V.M.Jagannathan on the ground that the said V.M.Jagannathan, is the brother of one V.M.Krishnan, the father-in-law of the first defendant and that the said V.M.Jagannathan represented the defendants in an earlier suit in O.S.No.22 of 1984 on the file of District Munsif Court, Tiruttani,



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in which altogether a different property was involved.

5.In fact the plaintiffs wanted to examine the said Jagannathan as a witness in the present suit. The learned trial Court Judge held that if the plaintiffs want to examine a person as a witness they can do so but they cannot seek the impleadment of the said person as a party to the suit especially when there is no cause of action to seek for a relief against him. It was therefore held that he is not a proper and necessary party to the suit.

6.It is seen from the records that the earlier suit in O.S.No.22 of 1984 relates to some other property and no relief is sought for against the proposed party Mr.V.M.Jagannathan in the present suit. Now it is brought to the knowledge of this Court that the said proposed party V.M.Jagannathan is no more. Thus the petition itself has become infructuous. Moreover, even on merits, the proposed party cannot be said to be a proper and necessary party in the partition suit as it is admitted by the plaintiffs that the proposed party is not one of the shares of the suit property.



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7.The learned trial Court Judge in fact relied on the decision in
1992 (2) SCC Page 524 wherein it has been held as follows :

"Merely because a party as a necessary witness has to give evidence with regard to some of the questions involved in the suit, the same would not make him a necessary party to the suit"

"The only reason which makes it necessary to make a person a party to an action is that he should be bound by the result of the action and the question to be settled therefore, must be a question which cannot be effectually and completely settled unless he is a party".

She has also observed that there is no cause of action as against the proposed party. The observations made by the learned I Additional District Judge, Tiruvallur, cannot be found fault with and therefore, I do not find any reason to interfere with the same.

8.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order

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R. HEMALATHA, J.

mtl

To

- 1.The I Additional District Court, Tiruvallur.
- 2.The Section Officer, VR Section, High Court, Madras.

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