



C.R.P(NPD)No.319 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

C.R.P(NPD)No.319 of 2022
and C.M.P.No.1650 of 2022

E.Narayanan
S/o.Late Elumalai Pillai

... Petitioner

Vs.

1.N.Ganapathy
S/o.Late Narayanasami Pillai

2.N.Selvaraj
S/o.Late Narayanasami Pillai

3.The Thasildhar
Tambaram Taluk Office
GST Road, Kadaperi
Tambaram
Chennai – 45

4.N.Sekar
S/o.Late Narayanasami Pillai

5.Parasuraman
S/o.Late Narayanasami Pillai

... Respondents



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PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, against the Fair and Decretal order as made in I.A.No.29/2021 in A.S.No.7 of 2015, dated 04.01.2021 on the file of the Sub-Court, Tambaram.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondents : Mr.M.Elumalai for R1, R2, R4 & R5

Mr.P.Vijaya Devi for R3

ORDER

The plaintiff has laid a suit for declaration of title and recovery of possession of plaint B schedule property in O.S.No.127 of 2008 before the learned District Munsif Court, Tambaram. The suit came to be dismissed. The plaintiff has preferred A.S.No.7 of 2015 and that is now pending before the Subordinate Court, Tambaram. Pending application the plaintiff / appellant / revision petitioner herein has taken out I.A.No.29 of 2021 for impleading two of the brothers of defendants 1 and 2 as additional defendants in the appeal. That came to be dismissed vide impugned order dated 04.01.2021.

2.Introducing the facts of the case, the learned counsel for the revision



petitioner submitted that the private defendants in this case (defendants 1 and 2) were granted some permission or whatever to occupy some land adjacent to the defendants' land, but the defendants 1 and 2 went about swallowing almost every land adjacent to the lands so granted, which included plaint B schedule property which accordingly to the plaintiff / revision petitioner exclusively belonged to him, and thereafter these defendants moved the Government for obtaining patta. This came to be challenged before this Court in a writ petition in W.P.No.15521 of 2010, wherein this Court is stated to have come down heavily on the defendants. During the pendency of the suit, the defendants 1 and 2 have partitioned the property with two of their other brothers vide a partition deed dated 24.02.2009. He now wants to implead two other parties to the partition deed to appear as parties to the proceedings.

3.Mr.Elumalai, the learned counsel appearing for all the four brothers, which included defendants 1 and 2 who are already in the party array, and respondents 4 and 5, the proposed parties to be impleaded, argued vehemently by drawing support from the line of reasoning of the order of the First Appellate Court. If paragraph 12 of the First appellate Court order is referred to, the learned Sub Judge has cited two reasons for rejecting it:



- a) that impleading the defendants will alter the character of the suit; and
- b) that to contend the plaintiff came to know about the partition deed only now, cannot be appreciated.

4. After carefully weighing the rival contentions, this Court cannot appreciate the line of reasoning of the learned Sub Judge exactly for the reason opposite to what he has given. By impleading two parties whose impleadment was necessitated because of defendants 1 and 2 opted to include two more parties to share the property which is now in dispute. The defendants 1 and 2 chose to share the property they occupied with two of their other brothers vide a partition deed dated 24.02.2009. At the end of the day, the prayer of the plaintiff continues to remain the same and he only wanted to implead two *pendente lite* / co sharers of the property. Turning to the second line of reasoning of the learned Subordinate Judge, if only the two proposed defendants were kept aside now, then in the eventuality of the plaintiff succeeding the suit, these two defendants are going to put spoke on efforts of the plaintiffs to execute the decree that may be passed against them. This Court does not intend to complicate the issue by adopting an over simplified approach now. Hence this Court directs their impleadment. Having said that



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this Court directs an expeditious disposal of this appeal not later than
30.06.2022.

5. With the above direction this Civil Revision Petition stands disposed of.
Consequently, the connected C.M.P.No.1650 of 2022 is closed. No costs.

10.03.2022

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

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Note: Office to issue order copy on 14.03.2022

To

Sub-Court
Tambaram

N.SESHASAYEE, J.,



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