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C.R.P. (PD) No.2488 of 2022
& C.M.P.No.12854 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.2488 of 2022
& C.M.P.No.12854 of 2022

1.M.Gomathi
2.T.Arjunan
3.D.Revathi
4.L.Sivakami
5.R.Santhamani
6.A.Santhamani
7.L.Anitha
8.R.Manivannan
9.M.Arumugam
10.P.Savitha

...

Petitioners /
Proposed parties

versus

1.T.K.Loganathan
2.T.K.Sekar
3.Vijayalakshmi
4.Saraswathi
5.Onasis
6.Rajammal @ Rasamani
7.Angamuthu
8.Mahendran
9.Sarasu @ Sarawathi
10.Mallika

...

1st Respondent /
Plaintiff



11.Nallasivam @ Sivasubramaniam
12.Thayammal

13.Bank of Baroda,
Represented by its Branch Manager,
Perundurai Branch,
Perundurai, Erode District.

14.The Periyar District Central
Co-operative Bank Limited,
Represented by its Branch Manager,
Perundurai Branch,
Erode District.

...

Respondents 2 to 14 /
Defendants

[The respondent Nos.2, 6 and 13 were remained exparte before the lower court, hence the notice to the respondent Nos.2, 6 and 13 may be dispensed with]

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.12.2019 made in I.A.No.153 of 2019 in A.S.No.44 of 2017 on the file of the learned Principal District Judge, Erode.

For Petitioners : M/s.R.Vigneswari
for Mr.M.Guruprasad

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Principal District Judge, Erode, dated 04.12.2019 made in I.A.No.153 of 2019 in A.S.No.44 of 2017.



2. The revision petitioners are the proposed parties who filed the Interlocutory Application in I.A.No.153 of 2019 to implead themselves as parties to the proceedings; the suit filed by the first respondent / plaintiff for the reliefs of partition and separate possession was partly decreed and preliminary decree to that effect has been passed and the same was challenged by the plaintiff by way of preferring an appeal in A.S.No.44 of 2017; pending appeal, the present petitioners have filed this petition to implead themselves as parties to the proceedings and the same was dismissed. Aggrieved over that, the petitioners have filed the present Civil Revision Petition.

3. The learned counsel for the revision petitioners submitted that the proposed parties are purchasers of the suit properties from the purchasers of the defendants in the suit. Since they have an interest in the suit properties they should also been impleaded as parties to the proceedings.



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4. The records would show that the defendants against whom the suit has been filed are the vendors of the proposed parties. The vendors of the proposed parties themselves can derive their title only through the defendants who are already parties to the suit. The purchasers of the defendants have already filed a petition to implead themselves and that was also dismissed for the reason that they are not necessary for the purpose of the suit.

5. Since the alleged co-sharers have already been added as parties to the suit and if their equivalent is set right in some way or other that will necessarily bind the purchasers of the defendants and the purchasers of the subsequent purchasers. Just because the transaction is being continued in respect of the suit properties, each purchaser cannot file a petition to implead themselves in the suit or appeal just to decide the right of original owners. For any reason if the co-sharers do not contest the proceedings there may be necessity for the interesting parties to implead themselves as parties to the proceedings. The learned trial Judge had chosen to dismiss the petition by taking into consideration of the original owners as parties to the proceedings. In the case in hand, preliminary decree has also been passed



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and the matter is pending in the appeal stage. If the original owners had alienated their interest and it is proved that the subsequent purchasers alone are entitled to the apportionment as already held in the preliminary decree, then it is open to them to implead themselves as parties to the final decree proceedings.

6. Since the preliminary decree is just to settle the entitlement of respective parties in the suit properties and for which necessary parties have already been impleaded and the suit was also disposed, the proposed parties need not be arrived at parties to the appeal proceedings. The learned trial Judge has dealt the issue correctly and dismissed the petition. Hence, I do not find any ground for interference.

7. In view of the above stated reasons, this Civil Revision Petition is dismissed and the order dated 04.12.2019 passed by the learned Principal District Judge, Erode in I.A.No.153 of 2019 in A.S.No.44 of 2017 is hereby confirmed. Consequently, connected Miscellaneous Petition is closed. No costs.



08.08.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

The Principal District Judge, Erode.



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R.N.MANJULA, J.

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