



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.NPD.No.3042 of 2017

and

C.M.P.No.14288 of 2017

Sarasu (died)

1. Sulochana

2. Menaga

3. Mala

4. Senbagam

... Petitioners

Vs.

1. Ganesan

2. Ramalingam

3. Vijaya

4. Ponnusamy

5. Sekaran

... Respondents

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and final order dated 8.6.2017 made in R.E.A.No.10/2016 in R.E.A.No.12/2014 in R.E.P.No.23/2013 in O.S.No.324 of 2005 on the file of the District Munsiff Court at Harur.

For Petitioners .. Mr.S.Kanniah

For R1 .. Mr.V.Nicholas

For R2 to R5 .. No appearance



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ORDER

The revision petition has been filed questioning an order dated 08.06.2017 in R.E.A.No.10 of 2016 in R.E.A.No.12 of 2014 in R.E.P.No.23 of 2013 in O.S.No.324 of 2005 on the file of the District Munsif Court Harur.

2. As seen from the cause title, the petition had been filed by proposed parties in an execution application in a pending execution petition. The Execution Petition in REP No.23 of 2013 had been filed pursuant to a decree in O.S.No.324 of 2005 which was a suit for specific performance. The suit had been decreed. The Court was called upon to execute a sale deed. In that particular Execution Petition, an application had been filed, since the original defendant had died, to bring on records his legal heirs. That particular application had been filed under Order 1 Rule 10 of CPC. The petitioners also claimed themselves to be proposed objectors.

3. The learned District Munsif, Harur by an order dated 08.06.2017 had dismissed the said application claiming that they had earlier filed an



application in the suit itself in I.A.1250 of 2012 and that was also dismissed and therefore having found that they are neither necessary parties nor proper parties, dismissed the application.

4. But I would rather interfere with the order dated 08.06.2017 in R.E.A.No.10 of 2016. The standard of examination whether a defendant is required to be added as a further party to the suit would be to examine whether the said proposed party is necessary or proper party to adjudicate the issue raised in the suit. However, after that particular stage is crossed and execution of the decree is questioned, then any third party can even file a claim petition and obstruct the decree. They cannot be pigeon holed as necessary or proper party. Their rights will have to be examined and their right to obstruct and the right of the decree holder to claim possession or execution of the decree in spite of such obstruction, are issues which will have to be examined.

5. Therefore, it is only appropriate that the execution proceedings continue in the presence of all the parties who obstruct and proceed further in manner known to law.



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6. With the above observations, the present Civil Revision Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed. But, however let me stipulate a time frame for disposal of REP No.23 of 2012 after following due procedure, namely, to be disposed on or before 31.08.2022.

11.04.2022

Internet: Yes/No

Index: Yes/No

mn/smv

To,
The District Munsif Court, Harur



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C.V.KARTHIKEYAN,J.

smv

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