



CRP(MD)No.2241 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP (MD) No.2241 of 2022

and

CMP (MD) No.10491 of 2022

1.Venkatesan

2.Vasantha

: Petitioners

Vs.

1.The Block Development Officer,
Panchayat Union Office Building Complex,
Main Road, Thirupananthal,
Thiruvidaimaruthur Taluk,
Thanjavur District.

2.The Thasildar,
Thiruvidaimaruthur,
Thiruvidaimaruthur Taluk,
Thanjavur District.

3.The District Collector,
Collectorate,
Thanjavur District.

4.Jawagarlal Nehru

5.Pusba

: Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to the fair and decreetal order dated 27.07.2022, made in I.A.No.8 of 2022 in A.S.No.10 of 2018, on the file of the Additional Sub Court, Kumbakonam and set aside the same.

For Petitioners : Mr.R.Rajaraman

For Respondents : Mr.Sarangan,
Additional Government Pleader
for R.1 to R.3

ORDER

The petitioners are husband and wife. They filed the present revision petition as against the order passed in I.A.No.8 of 2022 in A.S.No.10 of 2018, dated 27.07.2022, on the file of the Additional Sub Court, Kumbakonam.

2.The first petitioner has filed a suit in O.S.No. 325 of 2013 before the Principal District Munsif, Kumbakonam, seeking an injunction not to alter the tax



receipts standing in his name. The suit was dismissed on 17.11.2017. Challenging the same, the first petitioner has preferred an appeal before the Additional Sub Court, Kumbakonam, in A.S.No.10 of 2018. Pending the appeal, the petitioners have filed an interlocutory application in I.A.No.8 of 2022 that pending the suit proceedings, the first petitioner has transferred the suit schedule property in the name of the second petitioner by a settlement deed and therefore, the second petitioner is liable to be impleaded as second appellant in the appeal proceedings as per Order 22 Rule 10 CPC and Order 1 Rule 10 CPC. The learned Additional Subordinate Judge, Kumbakonam, by the order impugned, dismissed this application. Aggrieved over the same, the petitioners have moved the instant revision.

3.Learned Counsel for the petitioners submitted that the suit schedule property originally stood in the name of the first petitioner and is now transferred in



the name of the second petitioner pending the suit proceedings. The second petitioner is now the owner of the property and she alone is entitled for the relief sought for and therefore, she must be added as one of the party.

4.The learned Counsel has also relied upon the decision of this Court in ***R.Mani v. P.Kalaiselvi and Another*** [2020 (1) MWN (Civil) 296], wherein, this Court has held as follows:-

"8.On the contrary, in the judgments relied upon by the learned Counsel for the petitioner, the Apex Court as well as this Court held that a subsequent purchaser is a proper and necessary party and therefore, he should be impleaded in the suit for proper adjudication.

9.The trial Court, without appreciating the above facts, erroneously dismissed the application finding that the application filed by the plaintiff to implead the proposed party is barred by limitation. But on a perusal of the order, it is clear that in Paragraph - 9, the trial Court itself has observed that the



proposed party may be a necessary party. Having given such a finding, the trial Court should have allowed the application. Admittedly, the petitioner has not claimed any relief as against the proposed party. In such a case, the question of limitation does not arise for consideration. The order passed by the trial Court is erroneous and is liable to be set aside. ..."

5. Heard the learned Counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents 1 to 3.

6. The second petitioner is the wife of the first petitioner and she claims to have purchased the suit property pending the suit, from the first petitioner via a settlement deed. However, she has not taken any steps to implead herself when the suit was pending. The suit was dismissed in the year 2017 and the appeal is pending from the year 2018. The appeal is posted for arguments and at this stage, the petitioners have come up with this plea.



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B.PUGALENDHI, J.

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7.This conduct of the petitioners in filing the application at this stage appears to be for dragging on the proceedings and the lower appellate Court has rightly rejected this application.

8.This Court does not find any error in the order impugned warranting interference. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

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Internet : Yes

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To

The Additional Subordinate Judge,
Kumbakonam.

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