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CRP.No. 3236 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.No. 3236 of 2023

and

CMP.No. 19929 of 2023

Thulasidass

.. Petitioner

Versus

1.Sagunthala Ammal

2.Kannan

3.Manikandan

4.Bhuvaneswari

5.Hema

.. Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, prays to set aside the fair and decreetal order dated 26.06.2023 passed in I.A.No. 3 of 2022 in O.S.No. 7 of 2019 dated 26.06.2022 on the file of the I Additional District Judge, Tindivanam.

For Petitioner : Mr. P. Manojkumar

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## **ORDER**

Heard the learned counsel for the petitioner and perused the records.

2. On a perusal of the records, it is seen that the respondents 1 and 2/plaintiffs filed the suit in O.S.No. 7 of 2019 before the learned I Additional District Judge, Tindivanam, for partition and other reliefs. The respondents 3 to 5/defendants contested the suit by filing written statement denying all the averments made in the plaint. During the pendency of the suit proceedings, the first respondent/proposed party filed I.A.No. 3 of 2022 seeking to implead her in the main suit as 2<sup>nd</sup> defendant. After perusing the records, the trial Court allowed the application by order dated 26.06.2023. Challenging the same, the petitioner/first defendant has come forward with the present Civil Revision Petition.

3. According to the petitioner, the first respondent/proposed party did not purchase the property on 23.08.1983 and the revision petitioner herein has purchased out of his income. Since the petitioner was 17 year old, the first respondent was shown as guardian for the minors. The Sale



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Deed will reflect the name of the petitioner alone which itself would prove that it is the self acquired property of the petitioner. When the first respondent has no right over the property, there is no necessity to implead her in the suit. The daughter of the 4<sup>th</sup> respondent has filed the suit in O.S.No. 163 of 2014 before the Sub Court, Tindivanam, which was dismissed as against which the appeal suit in A.S.No. 6 of 2019 and the same is pending. The first respondent/proposed party got impleaded in the appeal suit. Hence, the petitioner prays to set aside the findings of the trial Court.

4. According to the first respondent, she is the proposed party is the mother of the plaintiffs and the defendants in the suit proceedings. The respondents 1&2/plaintiffs have claimed 1/3<sup>rd</sup> share in the suit property. The fourth respondent's daughter, namely, fifth respondent herein has filed the suit in O.S.No. 163 of 2014 and claimed 1/6 share in which she was the 1<sup>st</sup> defendant and she has deposed in that case. The suit was dismissed on 31.01.2019. Against which she has preferred an appeal in A.S.No. 6 of 2019 and the same is pending. The suit property was purchased by the first respondent on 01.04.1976 and 23.08.1983 when her children were minors



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and she purchased the property for the welfare of minors. Now, the first respondent prays to implead her in the main suit as the 2<sup>nd</sup> defendant.

5. It is seen that the first respondent/proposed party is the mother of the plaintiffs and the defendants. The dispute raised in respect of the property purchased as per the sale deed dated 23.08.1983. The first respondent claims that she purchased the property for the welfare of the minor children and whereas, the petitioner claims that it is his own property. Though the first respondent did not claim any right over the suit property, the Court below considered that in order to bring about a complete adjudication and to ascertain the facts and circumstances of the case, the first respondent could be impleaded in this case as a defendant in the suit proceedings. However, the petitioner has alleged that the first respondent is bedridden and could not have come to Tindivanam and sign. Therefore, to overcome the suspicion, the Court below has rightly ordered that after the filing of the amendment petition, the first respondent/proposed party shall appear before the Court below and hence, the Court below has rightly allowed the application by order dated 26.06.2023. Hence, this Court is not inclined to interfere with the



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impugned order passed by the Court below and the above Revision fails,  
the same is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. Consequently,  
connected Miscellaneous Petition is closed. However, there shall be no  
order as to costs.

**05.09.2023**

Speaking order: Yes/No  
Neutral Citation : Yes/No  
Index : Yes/No  
msm

To

1. The I Additional District Judge, Tindivanam.
2. The Section Officer, V.R. Section,  
High Court, Madras.



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**V.BHAVANI SUBBAROYAN, J.**

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