



C.R.P.(PD) No.3165 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.3165 of 2019
and CMP.No.20633 of 2019

1.V.Jaganatha Reddy
2.V.Nagaraja Reddy
3.V.Shyla

... Petitioners

vs.

1.V.Venkataswamy Reddy
2.K.C.Prakash
3.S.M.Chandraiah
4.C.Mohanraj
5.Munikrishnappa
6.G.Loknath
7.T.Gobal
8.P.M.Sivaprasad
9.M/s.SPA Builders Pvt., Ltd.,
No.324, Raheja Arcade,
Koramangala, Bangalore – 560 095,
Karnataka State,
Rep. by its Commercial Manager,
Suresh Kumar Sharma,
Son of Late. Prabhati Lal Sharma,
No.176/6, Kalyana Mantapa Road,
Janata Colony, Jakkasandra,
Bangalore.
10.Muniamma
11.Pramila
12.Krishna Reddy
13.Chandra Reddy
14.Gowramma



C.R.P.(PD) No.3165 of 2019

15.K.C.Bhagyamma

16.K.C.Anasuya

17.Thimmaraya Reddy

18.Parvathamma

19.Ramakrishna Reddy

20.Neelamma

... Respondents

Petition filed under Article 227 of the Constitution of India, against the Fair and Decreetal Order passed in I.A.No.01 of 2019 in O.S.No.34 of 2008 dated 03.08.2019 on the file of the Additional District Judge at Hosur, Krishnagiri District.

For Petitioners : Mr.B.Siddeswaran

For Respondents: Mr.V.Nicholas (for R2 & R14)

No Appearance (for R1, R3 to R13
& R15 to R20)

ORDER

I.A.No.1 of 2019 was filed in O.S.No.34 of 2008. O.S.No.34 of 2008 is a suit for partition. In the said suit, an application was filed to include certain properties under Order 6 Rule 17 of CPC. This was in I.A.No.263 of 2017. The application was allowed. Against which, a civil revision petition was preferred to this Court in CRP(PD)No.563 of 2018. This Court passed the following order:

'....

6.Considering the aforesaid submissions made by



WEB COPY



C.R.P.(PD) No.3165 of 2019

the learned counsel for both sides and on a perusal of records, it is seen that the respondents filed an application in I.A.No.263 of 2017 to implead the proposed parties and properties in the said suit. To include the proposed properties is concerned, this Court has no hesitation to allow the Civil Revision Petition and inclined to pass the following order:

“(i)In respect of impleading proposed parties, the order dated 12.01.2018 passed in I.A.No.263 of 2017 on the file of the learned Additional District Judge, Hosur is confirmed, in respect of including the proposed properties, the order dated 12.01.2018 passed in I.A.No.263 of 2017 is set aside.

(ii)Liberty is granted to the respondents to file an application before the Court below, if it is permissible under law, to include the proposed properties”.’

2.After the order was passed, I.A.No.1 of 2019 was filed for amendment of the plaint to include properties. The learned trial Judge has dismissed the application on two grounds, namely, on the ground of pendency of O.S.No.13 of 2008 on the file of the Subordinate Court, Hosur and also on the fact that Order 6 Rule 17 of CPC does not permit impleading of proposed properties. To my knowledge, there is no provision in the Code of Civil Procedure to implead proposed properties.

3.A property is included in a suit by moving an appropriate application under Order 6 Rule 17 of CPC and that is what has been done



C.R.P.(PD) No.3165 of 2019

in the present case. The objection of the learned counsel for the petitioner that since the suit has already been filed in O.S.No.13 of 2008, there is no necessity to amend the suit in O.S.No.34 of 2008 does not appeal to me. In a suit for partition, if properties are not included, it may result in dismissal of the suit itself. Further, in the light of the liberty granted by this Court to file an application to amend the plaint to include the properties, the learned trial Judge erred in dismissing the application.

4.In the light of the above, this civil revision petition is allowed. The order passed in I.A.No.1 of 2019 is allowed. The plaintiff is granted leave to amend the plaint. No costs. Consequently, connected miscellaneous petition is closed.

18.08.2023

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

vs

To

The Additional District Judge at Hosur,
Krishnagiri District.



WEB COPY



C.R.P.(PD) No.3165 of 2019

V.LAKSHMINARAYANAN,J.

VS

**C.R.P.(PD)No.3165 of 2019
and CMP.No.20633 of 2019**

18.08.2023