



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

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CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.(NPD)No.2001 of 2017
and C.M.P.No.9706 of 2017**

M.B.Dhivya

... Petitioner

Vs.

1.K.Jaya

2.M.B.Kandhasamy

3.Jambulingam

4.Muniyan

5.Palaniappan

6.Sakunthala

7.Chandrasekaran

8.Easwari

9.Karuppayee

10.Sundarambal

Rayappan (died)

11.P.Chinnusamy

12.Chithayee

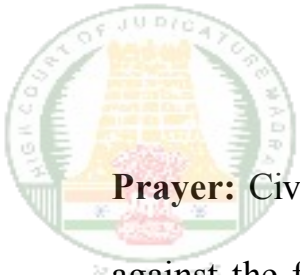
13.Murugesan

14.Sithaiyan

15.Muniammal

16.Irusammal

... Respondents



Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 14.03.2017 made in I.A.No.112 of 2016 in I.A.No.5 of 2015 in O.S.No.565 of 2004 on the file of the II Additional District Munsif Court, Bhavani, Erode District.

For Petitioner : Mr.K.Raja
For R1 & R2 : Ms.V.Anandha Moorthy
For R12 : No appearance

ORDER

The revision arises against an order dated 14.03.2017 in I.A.No.112 of 2016 in I.A.No.5 of 2015 in O.S.No.565 of 2004 on the file of the II Additional District Munsif Court, Bhavani, Erode District.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 & 2. I have carefully gone through the records.

3. The 3rd respondent is the plaintiff. The civil revision petitioner is a purchaser of the property from the plaintiff in O.S.No.565 of 2004 on the file of the II Additional District Munsif Court, Bhavani, Erode District. The suit had been presented for partition and separate possession. In the said suit, the plaintiff i.e., the civil revision petitioner's vendor was allotted 16/56 share, which converts to 54.4 cents of the schedule mentioned property. On the basis of the final decree passed in favour of the



plaintiff, a sale deed was executed on 21.04.2016. The 3rd defendant had also alienated the property in favour of the defendants 1 & 2.

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4. According to the civil revision petitioner, which is confirmed by Mr.V.Anandha Moorthy, learned counsel for the respondents 1 & 2, alienation is for about 58 cents.

5. When the entitlement as per the final decree is only 51.4 cents, alienation of more than that necessarily would give rise to a discrepancy and would cause further litigation. A purchaser of the joint family property is entitled to be impleaded in a partition suit. Here is a case, where she has purchased the property after passing of a final decree. In this case, the respondents 1 & 2 seek to vary the preliminary decree on the basis of which, the final decree has been passed. This will certainly affect the rights of the purchaser. Therefore, the purchaser being a proper and necessary party should have been impleaded.

6. In view of the above,

(i) The order passed by the trial Court holding that the civil revision petitioner is not a necessary party, since she has purchased only the share of Jambulingam/plaintiff, is set aside.

(ii) I.A.No.112 of 2016 in I.A.No.5 of 2015 in O.S.No.565 of 2004 on the file of



CRP(NPD)No.2001



the learned II Additional District Munsif, Bhavani, stands allowed.

(iii) Accordingly, the Civil Revision Petition is allowed. No costs. Consequently,

connected Miscellaneous Petition is closed.

26.07.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

II Additional District Munsif
Bhavani, Erode District.

V.LAKSHMINARAYANAN,J.



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