



CRP. No. 3834 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10. 2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 3834 of 2023
& CMP No. 23725 of 2023

D.Baby (Deceased)
G.Latha

...Petitioner

Vs.

Selvi R. Yogammal (Died)
1.S.Rajkumar
2.S.Tamizhvanan
3.S.Vasan
4.P.R.Rajendran
5.M.Dakshinamoorthy

....Respondents

6.K.Karthikeyan
7.C.Chandrasekar
8.C.Dhandapani
9.Ethiraj
10.Monika
11.Sakuntala
12.K.Rajendiran
13.K.Balasubramanian
14.K.Ravikumar
15.Dharmalingam
16.D.Saraswathi
17.D.Santhi



CRP. No. 3834 of 2023

18.D.Mallika
19.D.Saridha
20.D.Sathiya
21.Prabavathy
22.D.Kumar
23.D.Venkatesan
24.D.Murugan
25.N.Usha
26.N.Arun
27.N.Sathish
28.N.Priya

...Proposed respondents.

PRAYER : This petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed by 3rd Additional District and Sessions Judge, Vellore at Tirupattur dated 09.06.2023 in I.A No. 62 of 2017 in O.S No. 39 of 2015.

For Petitioner : Mr.S.Ramesh

ORDER

Challenging the impugned order dated 09.06.2023 passed by the 3rd Additional District and Sessions Judge, Vellore at Tirupattur in I.A No. 62 of 2017 in O.S No. 39 of 2015, the petitioner filed this petition.

2. The petitioner herein filed I.A No. 62 of 2017 in O.S No. 39 of 2015, on the file of the 3rd Additional District and Sessions Court, to implead the respondents 7 to 29/proposed parties as 7 to 29 defendants in



CRP. No. 3834 of 2023

the suit. After considering the submissions on either side, the Court below dismissed the said application stating that the petitioner filed the said petition in order to drag on the proceedings. Challenging the same, the petitioner filed this petition.

3. The learned counsel for the petitioner submits that the suit in O.S No. 39 of 2015 was filed for partition and other consequential relief, hence the petitioner is entitle to implead all the parties who are necessary to adjudicate the issue but without considering the above the Court below erroneously dismissed I.A No. 62 of 2017 in O.S No. 39 of 2015 filed to implead the necessary parties. Hence, he prays to allow this petition.

4. On perusal of records, the petitioner filed a suit for partition against the defendants 1 to 6 and also the defendants in their written statements have taken specific plea that the suit is bad for non joinder of the proposed parties. Hence, the petitioner filed the said application to implead the proposed parties as defendants but the same was dismissed. This Court is of the view that the suit is at trial stage hence the impleading the parties would not cause any prejudice to the respondents but the Court below failed to appreciate these legal aspects and erroneously dismissed I.A No. 62 of 2017. Therefore, the order passed by the 3rd Additional District and Sessions



CRP. No. 3834 of 2023

Court, Vellore at Tiruppur in I.A No. 62 of 2017 in O.S No. 39 of 2015 is set aside. Accordingly, I.A No. 62 of 2017 is allowed. Further, the Trial Court is directed to allow the respondents to file a additional written statement and also issue notice to the respondents to that effect.

5. In result, this Civil Revision Petition is allowed. No Cost. Consequentially, connected miscellaneous petition is closed.

20.10.2023

pbl



WEB COPY



CRP. No. 3834 of 2023

T.V.THAMILSELVI,J.

Pb1

To

1. The 3rd Additional District and Sessions Court, Vellore at Tiruppur

CRP No. 3834 of 2023
& CMP No. 23725 of 2023

20.10.2023