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C.R.P.No.3921 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

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

C.R.P.No.3921 of 2023

and

C.M.P.No.24006 of 2023

Lakshmi

... Petitioner

-Vs-

1. Jaganathan
2. Meganathan
3. Sengeni
4. Jayasudha
5. Murugan
6. Senthilkumar
7. Karpagam
8. Jayapradha
9. Jaya @ Valli
10. Murugaiyan
11. Rajesh

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 30.08.2023 passed in I.A.No.3 of 2023 in O.S.No.6 of 2021 on the file of 2nd Addl. District Judge, Tindivanam.

For Petitioner

: Mr.N.Suresh



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ORDER

Challenging the impugned order passed in I.A.No.3 of 2023 in O.S.No.6 of 2021 passed by the learned 2nd Addl. District Judge, Tindivanam, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner filed an interlocutory application in I.A.No.3 of 2023 in O.S.No. 6 of 2021 to implead the purchaser of the 12th item of suit property as 11th defendant in the above suit. But the trial judge dismissed the application stating that as he purchased the property during the pendency of the proceedings, he is not a necessary party to the proceedings and he need not be impleaded. Challenging the said findings, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

4. Admittedly, the proposed party purchased the 12th item of suit property during the pendency of the proceedings, but by impleading him,



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it would not change the character of the suit. So, on seeing the facts that as the purchase made by the proposed defendant during the pendency of the proceedings, it would hit by lispendence. Therefore, to avoid multiplicity of proceedings and to prove his purchase during the pendency of the proceedings, his presence is necessary, but the trial judge failed to consider the same and erroneously dismissed the application. Hence, the observation made by the trial judge is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.3 of 2023 in O.S.No.06 of 2021 is set aside and the said application is ordered to be allowed. Liberty is granted to the other respondents to file their additional written statement, if any. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
rpp

To

II Addl. District Judge, Tindivanam.



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T.V.THAMILSELVI, J.

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