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C.R.P.No.4296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

C.R.P.No.4296 of 2023

and

C.M.P.No.26334 of 2023

1. Azhagarasan
2. Mangaiyarkarasi

... Petitioners

-Vs-

- 1.Pavunambal
- 2.Vijivinodha
- 3.Vanitha
- 4.Vinothkumar
- 5.Vidhya
- 6.Srinivasan
- 7.Kumaresan

- 8.The Sub-Registrar
Chinna Salem Sub-Registrar Office
Chinna Salem, Kallakurichi.

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order of dated 28.06.2023 in I.A. No.52/2023 in O.S. No.36/2022 on the file of the III Additional District Court, Kallakurichi as illegal and incompetent.



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For Petitioner

: Ms.B.S.Mitra Neshaa

for M/s.V.Srimathi

ORDER

Challenging the impugned order passed in I.A.No.52 of 2023 in O.S.No.36 of 2022 passed by the learned III Addl. District Judge, Kallakurichi, the Revision Petitioners/plaintiffs 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 Petitioners filed an application to implead the proposed respondents 6 to 8 as necessary parties to the proceedings stating that they have entered into a sale agreement in respect of suit property. Therefore, they are necessary parties. That application was dismissed by the trial judge holding that the nature of property, as on date, more particularly, item Nos.3 and 4 of suit properties were purchased in



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the year of 1992. So, it is a self-acquired properties. With that observation, the trial judge dismissed the application stating that they are not necessary parties to the proceedings and they need not be impleaded in the suit. Challenging the said findings, the revision petitioners/plaintiffs preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioners would submit that the defendants have filed a written statement stating that they entered into a sale agreement in respect of portion of suit property. Therefore, necessity arose for them to implead those agreement holders.

5. Admittedly, the suit was filed for the relief of partition in the year of 2022. If at all, any such agreement is entered in respect of suit property, the agreement holders are necessary parties to the proceedings in order to avoid further complications. But, the trial judge failed to consider the same, which needs interference. Hence, the observation made by the trial judge is erroneous one and same 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.52 of 2023 in O.S.No.36 of 2022 is set aside and the said



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application is ordered to be allowed. Liberty is granted to the defendants to file their additional written statement if any before the trial court. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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To

The III Additional District Judge, Kallakurichi



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T.V.THAMILSELVI, J.

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