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C.R.P.No.4924 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM:

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

C.R.P.No.4924 of 2023

and

C.M.P.No.28972 of 2023

1. Nadaiammal
2. Shanmugam
3. Vijay
4. Amala

... Petitioners

-Vs-

Dhandabani (deceased)

1. Balakrishnan
2. Velu
3. Kumar
4. Ramesh
5. Panneerselvam
6. Anjalai
7. Minor Meera
rep. by mother and natural guardian
6th respondent

8. Syed Shafiulla

... 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



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10.07.2023 made in I.A.No.1 of 2022 in O.S.No.242 of 2016 on the file of the Addl. District Munsif, Ulundurpet.

For Petitioner : Mr.C.Munusamy

ORDER

Challenging the impugned order passed in I.A.No.1 of 2022 in O.S.No.242 of 2016 passed by the learned Addl. District Munsif, Ulundurpet, 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, during P.W.1 cross, the revision petitioners/plaintiffs filed an application to implead the subsequent purchaser and the same was dismissed by the trial judge holding that now the trial was begun and proposed party has purchased the 5th item of the suit property, but not stated at the earliest point of time though the said



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property was added as 6th item in the suit property. Furthermore, the suit is lack of evidence. Aggrieved over the same, the Revision Petitioner preferred this Civil Revision Petition.

4. On perusal of records, the suit was filed by the plaintiff in the year of 2016 for the relief of partition and other consequential relief against the defendants, in which the defendants have also contested the suit. At this stage, the possession of plaintiff in item no.5 was purchased by the proposed party. Hence, he wanted to add the purchaser as 9th defendant. But, the trial judge had observed that though the property of item No.5 was mentioned in the suit, but not added the proper party at the time of filing the suit. Now, the suit is at the stage of P.W.1 cross and during the pendency of proceedings, the proposed party purchased the property of item no.5. Therefore, adding of proposed party would not cause any prejudice to the contesting parties nor it would not change the character of the suit. But, the trial judge dismissed the application, as such is erroneous one and the 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.1 of 2022 in O.S.No.242 of 2016 is set aside and the said



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application is ordered to be allowed. Liberty is granted to the contesting parties to file their additional written statement, if any. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.

22.12.2023

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

To

The Addl. District Munsif, Ulundurpet.



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T.V.THAMILSELVI, J.

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