



C.R.P.(PD)(MD).Nos.1064 to 1071 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)Nos.1064 to 1071 of 2013

and

M.P(MD) No.2 of 2013

in

C.R.P(MD) No.1064 of 2013

C.R.P(PD)(MD) No.1064 of 2013

1. Periyammal

2. Subramanian (died)
(LR to be shown as Respondents)

3. Banumathi ... Petitioners/Petitioners 1 to 3/
Petitioners 1 to 3/Plaintiffs 1 to 3
-vs-

Nadupayal alias Mondhi Muthukartuppan (died)

1. Parvathi
2. Sellammal
3. Indhirani
4. Selvi

... Respondents 1 to 4/Respondents/
Respondents/Defendants

5. Amutha
6. Murugesan
7. Mathubala
8. Manikandan

... Respondents 5 to 8/Legal heirs of
deceased 2nd petitioner

1/5



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(Cause title accepted vide Court order dated 20.06.2013 made in M.P(MD) No.1 of 2013 in C.R.P(MD) SR 53885 of 2012)

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and decretal order, dated 19.01.2012 in I.A.No.613 of 2004 in I.A.No.1043 of 2002 in O.S.No.26 of 1992 on the file of the District Munsif, Musiri.

For Petitioners : Mr.K.Govindarajan
For Respondents : No appearance

COMMON ORDER

The plaintiffs in a suit for partition are the revision petitioners in all these revision petitions. In the suit for partition, a preliminary decree was passed on 21.10.1994. I.A.No.1043 of 2002 was filed for passing a final decree. While the said application for passing a final decree was pending, the plaintiffs came to know that one of the property was left out in the suit for partition. This triggered the filing of the following applications:

(i) I.A No.391 of 2004 was to amend the preliminary decree in order to incorporate the property;

(ii) I.A.No.519 of 2004 was filed to implead the purchaser of the property which is sought to be included in the schedule;



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(iii) I.A.No.520 of 2004 was to amend the plaint in order to implead the purchaser;

(iv) I.A.No.521 of 2004 was filed to amend the plaint to include the property in the preliminary decree;

(v) I.A.No.522 of 2004 was filed to amend the preliminary decree by impleading the purchaser;

(vi) I.A.No.523 of 2004 was filed to implead the purchaser in the final decree petition;

(vii) I.A.No.524 of 2004 was filed to amend the preliminary decree by impleading the purchaser in the final decree; and

(viii) I.A.No.613 of 2005 was filed for passing of fresh preliminary decree.

2. The series of applications filed by the plaintiffs/decreed holders will clearly disclose the fact that the plaintiffs had left out one of the joint family property from being included in a suit for partition in O.S.No.26 of 1992. It is also clear that the said property has been purchased by a third party to the family even prior to the filing of the suit for partition. Unless, the purchasers are given an opportunity to defend, the said property cannot be included in



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the plaint schedule or the final decree proceedings. Therefore, these applications are not maintainable. The trial Court had rightly dismissed these applications.

3. With the above said observations, all the Civil Revision Petitions stand dismissed. However, the plaintiffs are at liberty to institute a fresh suit for partition of the property that was left out in O.S.No.26 of 1992. The purchasers are at liberty to raise all the factual legal issues, in case, such an independent suit is filed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

14.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The District Munsif,
Musiri.



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R.VIJAYAKUMAR,J.

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