



CRP(PD)(MD)No.266 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.266 of 2023

and

CMP(MD)No.1232 of 2023

1.Mrs.Unnamalai
2.Mrs.Saraswathi

... Petitioners

Vs

1.Velusamy Devar
2.Veeraputhiran
3.Mariappan
4.Gururaj
5.Selvaraj
6.Marisamy
7.Arunachalam
8.Chellathai

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the fair and decreetal order as made in I.A.No.10 of 2022 in O.S.No.162 of 2013, on the file of the Subordinate Judge, Sankarankovil, Tenkasi District, dated 18.11.2022 and set aside the same as illegal and erroneous and consequently revise the said order forthwith.



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For Petitioner : Mr.S.Palani Velayutham

ORDER

This Civil Revision Petition is filed as against fair and decreetal order passed by the learned Subordinate Judge, Sankarankovil, Tenkasi District, in I.A.No.10 of 2022 in O.S.No.162 of 2013, dated 18.11.2022.

2.The petitioners are the plaintiffs in O.S.No.162 of 2013 and they have filed the above suit for the relief of partition as against the respondents 1 to 5 herein. Pending the suit, the petitioners/plaintiffs filed I.A.No.10 of 2022, under Order 1 Rule 10(2) of Civil Procedure Code, to implead the respondents 6 to 8 as necessary parties to the suit on the ground that pending the suit, the first respondent has sold some of the suit schedule properties to the respondents 6 to 8. The trial Court dismissed the application by referring the provision under Section 52 of the Transfer of Property Act. Aggrieved over the same, the present Civil Revision Petition is filed.



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3.The learned counsel appearing for the petitioners submits that pending the suit, the first respondent has sold the third suit schedule property to the respondents 6 to 8. Since the suit is filed for the relief of partition, it is necessary to implead the respondents 6 to 8 also as parties in the suit. However, the trial Court has erroneously dismissed the application filed by the petitioners. Hence, the order of the trial Court has to be set aside.

4.Heard the learned counsel appearing for the petitioners and also perused the materials placed on record.

5. The proposed defendants 6 to 8 are the purchasers of the third suit schedule property from the first defendant. When the suit for partition filed in O.S.No.162 of 2013 was pending, the first defendant knowing the pendency of the suit has sold the property to the respondents 6 to 8. The sale of property by the first defendant is barred



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by lis pendens as per Section 52 of the Transfer of Property Act. The findings in O.S.No.162 of 2013 is also binding on them.

6.Considering that the suit filed for partition is pending from the year 2013, impleading the respondents 6 to 8 would unnecessarily delay the suit. Therefore, this Court disposes this Revision Petition with a direction to the trial Court to conclude the trial as expeditiously as possible preferably within a period of five months from the date of receipt of a copy of this order.

7.With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2023

NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.
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The Subordinate Judge, Sankarankovil, Tenkasi District.



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B.PUGALENDHI, J.

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