



CRP(MD).No.544 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.03.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No. 544 of 2023

and

C.M.P(MD).No.2594 of 2023

Kalavathi

.. Petitioners/Appellant/Petitioner

Vs.

1.Minor Balaji

rep., by his next friend & Guardianship

Vijayagowri

2.T.Subramani

3.Vellaisamy

.. Respondents1 to 3/Respondents1
to3/Defendants 1 to 3

4.V.Pandiyaraj

... 4th Respondent/4th Respondent/
Proposed party

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 20.12.2022 made in I.A.No.3 of 2021 in A.S.No.17 of 2017 passed by the learned Subordinate Court, Uthamapalayam, Theni District.

For Petitioners : Mr.K.Sivabalan



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ORDER

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The second defendant in a suit for partition is the revision petitioner.

2. The suit for partition in O.S.No.209 of 2009 was decreed by the trial Court on 09.01.2017. Challenging the same, the second defendant, namely Kalavathi, had filed a first appeal in A.S.No.17 of 2017 before the Subordinate Court, Uthamapalayam. While the appeal was pending for four years, I.A.No.3 of 2021 was filed by the appellant to implead her husband as the second appellant in the appeal. The said application was dismissed by the trial Court. Challenging the same, the present Revision Petition has been filed.

3. A perusal of the affidavit filed in support of the impleading application indicates that the second defendant had executed a registered settlement deed in favour of her husband on 21.12.2016, when the trial Court had posted the case for judgment. Based upon the said settlement deed, the second defendant now seeks to implead her husband as the second appellant in the appeal. Therefore, it is clear that the proposed parties is a pendente lite purchaser when the suit was posted for judgment



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by the trial Court. Therefore, being a pendentilite purchaser, who was aware of the suit, is not entitled to be impleaded in the suit. Therefore, I do not file any infirmity in the order passed by the trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

02.03.2023

Index : Yes / No
Internet : Yes / No
Rmk

To
The Subordinate Judge, Uthamapalayam, Theni District.



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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
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