



C.R.P(MD)No.868 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.868 of 2023

and

C.M.P(MD) No.3940 of 2023

Rajarajan

...Petitioner/3rd party /
3rd party/Respondent

Vs.

1.Vasanth

2.Kannammal

3.V.Vasakar

4.Vajira

5.Rakavi

6.Minor.Nivetha

(Represented by father and natural guardian third respondent herein)

7.Minor.Kaviarasan

(Represented by father and natural guardian third respondent herein)

8.Govindarajan

9.Kalaiselvan

10.The District Collector,
Theni,
Having Office at Collectorate,
Theni.



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11. The Sub Registrar,
Bodiyanakanur,
Having his office at Sub Registry,
Bodiyanakanur.

... Respondents/ Respondents/
3rd Parties

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal orders passed in I.A.No.2 of 2021 in O.S No.178 of 2018 dated 19.12.2022 on the file of Subordinate Court, Theni.

For Petitioner : Mr.S.C.Herold Singh

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order in I.A.No.2 of 2021 in O.S No.178 of 2018 dated 19.12.2022 on the file of Subordinate Court, Theni.

2. The petitioner was the third party in O.S.No.178 of 2018 before the Subordinate Court, Theni filed by the first respondent against the respondents 2 to 8 herein. The said suit was filed for partition of the suit schedule property numbering in schedule A and B. During the pendency of the suit, the second respondent herein effected the sale of one of the properties in favour of the eighth respondent herein on 02.06.2018, who in turn sold the property to the petitioner.



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3. Under these circumstances, the first respondent filed I.A.No.2 of 2021 to implead the petitioner, which has been allowed by the trial Court. According to the petitioner, the petitioner is neither a necessary party nor a proper party in the proceedings. Therefore, it is submitted that the Court has unnecessarily impleaded the petitioner herein. Reference is made to the decision of the Hon'ble Supreme Court in the case of ***Gurumit Singh Bhatia Vs Kiran Kant Robinson and others*** reported in ***CDJ 2019 SC 1500***.

4. I have considered the impugned order passed by the learned Sub Judge, Theni on 19.12.2022 in I.A.No.2 of 2021 filed by the first respondent/plaintiff herein.

5. In my view, the petitioner is a necessary party inasmuch as the petitioner has purchased the property which is a subject matter of the above suit. Purchase has been made during the pendency of the said suit. Any decision that has to be taken by the trial Court by passing preliminary decree and final decree will necessarily have a bearing on the petitioner. Therefore, it is not open to the petitioner to state that neither a necessary party nor a proper party in O.S.No.178 of 2018.



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6. In my view, the impugned order passed by the learned Sub Judge, Theni on 19.12.2022 in I.A.No.2 of 2021 does not call for any interference. Therefore, the present Civil Revision Petition is liable to be dismissed. The trial Court is directed to bring closure to the dispute and proceed with the trial and pass preliminary decree and final decree as early as possible preferably within a period of 15 months from the date of receipt of copy of this order. It is open for the petitioner to file a written statement to defend his stand before the trial Court.

7. The present Civil Revision Petition stands dismissed with the above observations. No costs.

30.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1.The Subordinate Court, Theni.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

SN

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