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CRP (MD) No.1268 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 02.12.2022
PRONOUNCED ON : 07.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP (MD) No.1268 of 2022
and
CMP (MD) No.5200 of 2022

A.L.Alagappan

... Petitioner

Vs

1.R.A.Giri @ Nagaraj

2.RA.Ramesh

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.11.2021 in IA.No.364 of 2020 in OS.No.195 of 2015 on the file of the IV Additional District Court, Madurai.

For petitioner : Mr.T.Senthilkumar

For Respondents : Mr.CR.Janarthanan



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ORDER

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The Revision Petitioner before this Court is the proposed 15th defendant in the suit in OS.No.195 of 2015 before the IV Additional District Court, Madurai. The petitioner filed the present interlocutory application in I.A.No.364 of 2020 under Order I Rule 10(1) r/w Section 151 of the Code of Civil Procedure, to implead the petitioner as 15th defendant in the suit. The trial court in dismissed the said application in IA.No.364 of 2020 by order dated 02.11.2021. Aggrieved over the same, the petitioner has filed the present revision.

2.The suit in OS.No.195 of 2015 is filed by the respondents for the relief of partition of 2/8th share in the suit schedule properties. The plaintiffs and the defendant Nos.2 to 6 in the suit are the children of the 1st defendant and defendants 8 to 14 are purchasers of some of the suit properties. The grievance of the petitioner herein is that this suit was filed without impleading all the subsequent purchasers of the suit property and the petitioner is one such subsequent purchaser. The petitioner



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states that he purchased three plots in the 2nd schedule of the suit property from one M.Saroja on 23.01.2002, who bought the suit from the 1st defendant through her power agent one Murugesan on 01.03.1996. The petitioner also states that the defendants in the suit remained exparte and now the case is posted for judgement.

3.Per contra, the learned Counsel for the respondents contend that 1st defendant herself does not have any right over the suit property and the sale deeds executed by her are null and void.

4.This court considered the rival submissions and perused the materials placed on the record.

5.It has to be seen that the 1st defendant, who is the mother of the plaintiff, first executed a power of attorney in favour of one Murugasen on 20.09.1995 and subsequently he transferred the property to his wife one M.Saroja, P.Ilangovan and P.Balasubramaniyan on 01.03.1996. All three buyers executed a power of attorney in favour of one M.Sudekar on 23.01.2002. This power agent M.Sudekar



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executed a sale deed on 23.01.2002 in favour of the petitioner for consideration. When the property was bought in 2002, the respondents herein filed the suit OS.No.195 of 2015 only on 12.09.2015. Hence the petitioner having bought the property for consideration under a registered document qualifies as a bonafide purchaser of the property. This Court already dealt with a similar issue in **C.M.V. Krishnamachari v. M.D. Dhanalakshmi Ammal**, reported in **AIR 1968 Mad Page 142** wherein, in a suit for partition, the plaintiff claimed the suit property to be a joint family property and the party seeking to be impleaded as a defendant was a sale agreement holder with the defendant who described the suit property as his self-acquired property. The Court held that it is a fit case for impleading the petitioner as a party defendant in the suit as the party has a real, direct, tangible interest in the subject matter of the suit and that his presence was necessary to enable the Court to effectually and completely adjudicate upon the points in controversy. The Court also allowed the impleading on the ground that there can be collusion or fraud and hence the suit, should not be



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decided in the absence of a person whose interests would be vitally affected by the adjudication.

6.It can be seen from the facts of the case that all the defendants remained exparte in the suit without even filing a written statement and the suit is also in its final stage. The petitioner herein also apprehends collusion between the parties which is also possible. This petitioner would be vitally affected by any decision made in this suit. Moreover, the petitioner being a bonafide purchaser has a real, direct, tangible interest in the 2nd schedule of the suit property. Therefore, the petitioner is a necessary party to enable the court effectively and completely adjudicate upon and settle all the questions involved in the suit.

7.In view of the discussion above, this petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

07.03.2023

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IV Additional District Court,
Madurai.



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B. PUGALENDHI, J.

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