



C.R.P.(MD)No.1325 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

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1.Boopathy

2.Rajathi

3.Pappa

4.Lakshmi

5.Chellammal

6.Kannamal

... Petitioners / Petitioners/ proposed
Plaintiffs 2 to 6

Vs.

1.M.Muniyandi

... 1st Respondent/ 1st Respondent /
Plaintiff

Prema (Died)

2.Jeyageetha

3.Latha

4.Uma

5.Jeyakannan

6.The Sub Registrar,

Nilakottai,

Sub Registrar Office,

Nilakottai.

Respondents/ Respondents 1 to 7 /
Defendants 1 to 7



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Prayer: This Civil Revision Petition is filed Article 227 of the Constitution of India, against the order, dated 28.06.2019, passed in I.A. No.48 of 2019, in O.S.No.41 of 2009, on the file of the District Munsif, Nilakottai.

For Petitioners : Mr.S.Alagarsamy

For Respondents : No appearance

ORDER

The instant Civil Revision Petition has been filed against the order, dated 28.06.2019, passed in I.A.No.48 of 2019, in O.S.No.41 of 2009, on the file of the District Munsif, Nilakottai.

2. The petitioners herein are the proposed parties. The petitioners / proposed parties are none other than the siblings and mother of the plaintiff. They filed an application to implead themselves as plaintiffs into the suit on the ground that they are the co-sharers of the property.



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3. No appearance on behalf of the respondents.

4. I have given my anxious consideration to the petitioner side submissions.

5. On perusal of the plaint pleading, the plaintiff, who is the brother to the petitioners 2 to 6 and son to the first petitioner, has stated that the suit property is absolutely belongs to him. He never stated anything about the ownership of the proposed parties. However, he made an endorsement to allow the impleading application before the Court below.

6. At this juncture, it is pertinent to mention here that in C.R.P(MD)No.737 of 2018, this Court, vide order dated 23.08.2018, has given a direction to the trial Court to dispose of the suit within a period of three months and also recorded the undertaking made by the plaintiff that he will not file any Interlocutory Application. Therefore, this Court is of the firm view that, only to circumvent the said undertaking, he moved an application through the proposed parties. The



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same is vindicated from the no objection recorded by the plaintiff in the said application.

7. In order to decide this application, what we require to see whether the petitioners are proper and necessary parties. Proper party is a person whose presence is formerly required. The necessary party means that without their presence, the suit could not be decided effectively. But, in this case, according to the plaint pleading, the suit property only belongs to the plaintiff absolutely. Therefore, the proposed parties / revision petitioners are neither necessary nor proper parties.

8. However, the learned counsel for the revision petitioners would urge before this Court that the revision petitioners, being the co-sharers, they are necessary parties. This Court is not in a position to agree with the said submission as the present suit is only for declaration and injunction against the defendants. If at all the co-sharers / revision petitioners have any right over the suit property, they can very well file a suit for partition.



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9. Therefore, this Court is of the firm view that there is no infirmity in the order passed by the Court below. Hence, the instant Civil Revision Petition stands **dismissed** by confirming the order passed by the Court below. There shall be no order as to cost.

14.09.2023

NCC : Yes/No
Index : Yes/No
Ls



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C.KUMARAPPAN.,J.

Ls

To

1.The District Munsif,
Palani.

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

Order made in

C.R.P(MD)No.1325 of 2019

14.09.2023