



C.R.P.(NPD).No.1969 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.08.2023

PRONOUNCED ON : 21.12.2023

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD).No.1969 of 2023 and
C.M.P.(MD).No.9874 of 2023

Pushbam

... Petitioner

-Vs-

1.Sundaram

2.Ananthalakshmi

3.Sai Krishnan

... Respondents

Prayer:- Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the Order dated 26.08.2022 passed in I.A.No.4 of 2022 in I.A.No.3 of 2022 in O.S.No.1279 of 2015 on the file of the II Additional Subordinate Judge, Trichirappalli.

For Petitioner : Mr.T.Vadivelan

For Respondents : Mr.V.Karthikeyan

ORDER

Aggrieved over the order passed by the learned II Additional Sub Judge, Trichirappalli, passed in I.,A.No.4 of 2022 in I.A.No.3 of 2022 in O.S.No.



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1279 of 2015, the petitioner herein who is the third party/subsequent purchaser in the said suit has filed this civil revision petition.

2.The brief facts of the case, which led to the filing of this civil revision petition is as follows:

3.The revision petitioner as plaintiff filed the above suit in O.S.No.1279 of 2015 for partition against her father, brothers and sisters claiming 1/7th share in the suit properties. After trial a preliminary decree was passed on 01.04.2021 against which no appeal was preferred. Thereafter, the revision petitioner/plaintiff filed an application in I.A.No. 3 of 2022 for passing of final decree and the same is pending for adjudication. While so, the respondents/3rd parties filed an application in I.A.No.4 of 2022 to implead them in the final decree application as necessary parties. The respondents/3rd parties contended that they have purchased the portion of the suit property from the 1st defendant and as such they are having interest over the said property. The revision petitioner/plaintiff resisted the claim of the petitioners. However, the trial Court ordered to implead the petitioners in the final decree proceedings. Aggrieved by this, the present revision is preferred.



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4.The learned Counsel appearing on behalf of the petitioner/plaintiff would contend that, since the respondent/3rd parties are not the parties in the original suit proceedings and therefore, they cannot be impleaded in the final decree application as necessary parties. Even if they have any interest over the property purchased by them from the 1st defendant they can only sue against the first defendant in a separate proceedings. The trial Court without considering the above facts erroneously allowed the application filed by the respondent/3rd parties which is liable to be set aside.

5.On the other hand, the learned counsel appearing on behalf of the respondent/proposed parties would contend that the suit filed by the revision petitioner/plaintiff is for the relief of partition and though the proposed respondents are subsequent purchasers, they are entitled to be impleaded in the final decree proceedings, as they had to be construed as proper party, and adding them in the final decree proceedings would avoid the multiplicity of proceedings. Hence, the order passed by the trial Court warrants no interference.

6.Heard on both sides, records perused.

7.Now, on considering the above submissions with the factual aspects of the case, it is found that the suit in O.S.No.1279 of 2015 was filed by the petitioner/plaintiff for partition and separate possession, in which,



preliminary decree has been passed. Pursuant to which, the petitioner herein filed an application in I.A.No.3 of 2022 for passing of a final decree before the Trial Court. During the pendency of the said application, the respondent/proposed parties took out an application in I.A.No.4 of 2022 to implead themselves in the final decree application as proper parties. The said application was allowed by the trial Court. In this connection, it is relevant and necessary to refer to the judgment in the case of ***Shakeela Begam vs. Mohammed Yakkub (Deceased) & Others*** reported in ***2013 MWN CIVIL 2718*** in which it is held that :

"Subsequent purchasers may be proper parties and their presence is required only at the time of final decree proceedings and those persons can also be impleaded at the stage of the final Decree to work out their remedies.

8.Thus, by applying the aforesaid principle to the case on hand, herein also, the petitioner has filed a suit for the relief of paron. As of now, final decree proceedings are pending for the division of property, and hence, in the said circumstances, in the absence of any details in respect of the subsequent purchaser, who is a proper party, it is difficult for the Court to determine the area, which was proposed to be allotted in favour of the parties having the right over the Suit Schedule Property.



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9.Hence, according to me, in order to avoid the multiplicity of proceedings, particularly, in order to enable the parties to work out their rights with respect to the shares allotted to their vendor, namely the 1st defendant in the suit, it is necessary to add the subsequent purchaser as a party in the final decree proceedings. Therefore, no infirmity or perversity found in the order passed by the trial Court.

10.Accordingly, this civil revision petition is dismissed and the order passed by the trial Court on 26.08.2022 in I.A.No.4 of 2022 on the file of the II Additional Sub Court, Thiruchirapalli is confirmed.

11.In the result, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
gvn/vsn



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To
The II Additional Subordinate Judge,
Trichirappalli.



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K.GOVINDARAJAN THILAKAVADI, J

gvn/vsn

Pre-delivery order made in
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