



C.R.P(MD)No.1954 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.1954 of 2023

and

C.M.P(MD)No.9807 of 2023

Raavaneswaran

... Revision Petitioner

Vs.

1.Ramakrishnan

2.Nagarajan

3.Amuthavalli

4.Jeyalakshmi

5.Nagalakshmi (died)

6.S.Senthilkumar

7.Minor.Nithiga

**(7th respondent represented through her
father and next friend 6th respondent)**

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the
Constitution of India, to set aside the return order passed in I.A.No.



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(unnumbered) of 2023 in I.A.No.5 of 2022 in O.S.No.25 of 2009 on the file of the Principal District Court, Srivilliputhur, dated 19.07.2023 and number the same by allowing the Civil Revision Petition.

For Petitioner : Mr.A.Joseph Jerry

ORDER

The Civil Revision Petition has been filed as against the return order passed in I.A.No. (unnumbered) of 2023 in I.A.No.5 of 2022 in O.S.No.25 of 2009 on the file of the Principal District Court, Srivilliputhur, dated 19.07.2023 and number the same.

2. According to the Revision Petitioner, the father of the respondents 1 to 4 and grandfather of the sixth respondent has filed the above suit for partition against his father and others. It is further submitted that his father Nagaraj sold item No.4 in the schedule of property to the seventh defendant vide registered sale deed dated 09.07.2007. Thereafter, the seventh defendant has sold the said property to the petitioner by a registered sale deed, dated 14.09.2022 and he is a



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bonafide purchaser, had no knowledge about the *exparte* decree passed on 27.07.2016, at the time of his purchase. It is further submitted that even in the encumbrance certificate, the above encumbrance was not disclosed. After executing the sale deed in favour of the petitioner, the seventh defendant though he has filed an application to set aside the *exparte* decree, he will not have any interest to proceed the suit, since he has no right, title or interest in the suit property. The petitioner alone is the proper and necessary party to proceed the suit further. The petitioner must be given an opportunity to defend his case. The trial Court without considering the fact that, whether the petitioner is a proper or necessary party in I.A.No.5 of 2022 which has to be decided on merits only after numbering the same. The trial Court has erroneously returned the petition filed by the petitioner to implead himself in the above suit. Hence, the petitioner was constrained to file this Civil Revision Petition to direct the Court below to number the petition and dispose the same on merits. Hence, he prays for allowing the Civil Revision Petition.

3.Considering the limited prayer sought for in the Revision, notice to other side is deemed unnecessary.



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4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. Considering the facts and circumstances of the case, this Court directs the learned Principal District Judge, Principal District Court, Srivilliputhur, to number the unnumbered Interlocutory Application, if it is in order and dispose the same, on merits and in accordance with law, as expeditiously as possible, preferably within a period of one (01) month from the date of receipt of copy of this order.

6. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2023

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

RM



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To
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- 1.The Principal District Judge,
Principal District Court,
Srivilliputhur,
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

RM

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