



CRP (MD) No.1964 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

CRP (MD) No.1964 of 2022

and

CMP (MD) No.9010 of 2022

Mariappan

... Petitioner

Vs

1.Lakshmiammal

2.Krishnammal

Krishnasamy (died)

3.Uma Maheshwaran

4.Jeyeshwari

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 17.08.2022 made in I.A.No.8 of 2022 in O.S.No.326 of 2014 on the file of the Additional District Munsif, Sankarankovil.

For Petitioner : Mr.S.Kadarkarai

For Respondent : Mr.R.J.Karthick

Nos.1 and 2



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ORDER

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This Civil Revision Petition is filed as against the fair and decreetal order dated 17.08.2022 passed in I.A.No.8 of 2022 in O.S.No.326 of 2014 by the learned Additional District Munsif, Sankarankovil.

2.The petitioner is the subsequent purchaser of the suit schedule property from the second defendant in the year 2018. The respondents/ plaintiffs have filed the above suit for the relief of declaration and permanent injunction as against the second defendant and others. Pending the suit, this petitioner has purchased the property in the year 2018 and filed an application in I.A.No.8 of 2022 under Order I Rule 10 CPC to implead him as necessary party to the suit proceedings. The said application was dismissed by the trial Court. Aggrieved over the same, the present civil revision petition is filed.

3.The learned Counsel for the petitioner submits that the second defendant suppressing the suit has sold the property and deceived him. He has also not contested the



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suit effectively and as a result, his right would be affected. Therefore, he is a necessary party to the suit and he must be impleaded as party. However, the trial Court without considering the same has dismissed the application.

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

5.It is relevant to refer to the decision of this Court in Devaki Thiyagarajan v. Ahamed reported in (2015) 4 CTC 293 (DB), wherein A Hon'ble Division Bench of this Court has held as follows:

"70. We have struck a balance between the submissions made on behalf both sides and ultimately found that as observed by the Division Bench of the Apex Court in the above cited decision, the provisions of Order 1 Rule 10(2) of C.P.C., empowers court to add any person as a party at any stage of the proceedings.

71.As afore stated in the earlier paragraphs, the respondents 2 to 5/plaintiffs 1 to 4 have not alienated the suit property in favour of the



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appellant/proposed 5th plaintiff with the permission of the court. However, as argued by Mr. R. Thiagarajan, since the respondents 2 to 5/plaintiffs 1 to 4 have allegedly sold the suit property in favour of the appellant/proposed 5th plaintiff, they might not show much interest or due diligence in conducting the trial of the suit. Even if it is presumed that the appellant/proposed 5th plaintiff is not included as one of the co-plaintiffs to prosecute the suit as against the respondents 6 to 9, she would definitely approach the Court of law with a new suit, which would pave way for the multiplication of proceedings and only for the purpose of avoidance of any other litigation for the same subject matter, we have, therefore, decided that the appellant/proposed 5th plaintiff could be allowed to be impleaded as 5th plaintiff.

71a. Further, we do not see any collusiveness between the appellant/proposed 5th plaintiff and the respondents 2 to 5/plaintiffs 1 to 4. Section 52 of T.P. Act is a substantive law, whereas the provisions of Order 1 Rule 10(2) of C.P.C., is a procedural law. Even though the respondents 2 to 5/plaintiffs 1 to 4 have not obtained prior permission to alienate the



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property, which is directly and substantially in question in the present suit, Order 1 Rule 10(2) of C.P.C., empowers this Court to implead any party at any stage of the proceedings either as plaintiff or defendant upon or without any application of either party, whose presence appears to be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit."

6.The petitioner here is a *pendente lite* purchaser of the suit property. This petitioner purchased the suit property by way of a sale deed dated 04.05.2018 from the 4th respondent / 2nd defendant for a sale consideration of Rs.1,46,000/-. Therefore, the petitioner claims that he is a necessary party to the suit. The apprehension of the petitioner is that since the property is now sold by the 2nd defendant, he may not contest the suit properly. This is also possible as it can be seen from the impleading petition that the 2nd defendant, who is the vendor of the property has opposed for impleading the petitioner. A perusal of the sale deed clearly shows that the 2nd defendant is the executant of the document and still he



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chooses to oppose the impleading of the petitioner.

Hence the petitioner becomes a necessary party in the suit and he can be impleaded to avoid multiplicity of proceedings.

7.In the result, the civil revision petition is allowed. No costs. Consequently connected miscellaneous petition also stands closed.

24.02.2023

dsk

To

The Additional District Munsif,
Sankarankovil.



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