



CRP(PD)(MD)No.2384 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.2384 of 2022 and
CMP(MD) No.11525 of 2022

1.Karthikeyan
2.Tirupati

... Petitioners

Vs

1.Pandiyammal
2.Divya
V.Sankaran (Deceased)
3.Avudaiyammal

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.1 of 2021 in I.A.No.523 of 2014 in Filing Number O.S.No.14 of 2008 on the file of the Additional Subordinate Court, Srivilliputhur and continuously impleading the petitioners as necessary parties in I.A.No.523 of 2014 in Filing Number O.S.No.14 of 2008 and dispose of the same on merits and in accordance with law within the time stipulated by this Court.



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For Petitioner : Mr.S.Renganathan
For R1 & R2 : Mr.M.Jothi Basu
For R3 : No appearance

ORDER

This Civil Revision Petition is filed as against the order passed by the learned Additional Subordinate Judge, Srivilliputhur in I.A.No.1 of 2021 in I.A.No.523 of 2014 in O.S.No.14 of 2008.

2. The respondents 1 & 2 who are the daughters of one Sankaran filed a suit in O.S.No.14 of 2008, before the Sub Court, Srivilliputhur as against their father Sankaran and their aunt one Aavudaiyammal, wherein, a preliminary decree was passed by the trial Court on 23.06.2011. Thereafter, the respondents 1 & 2 have filed a petition for final decree proceedings in I.A.No.523 of 2014. In the final decree proceedings, Advocate Commissioner was also appointed and he also filed his report. At that stage, the petitioners herein have filed an application in I.A.No.1 of 2021, under Order 1 Rule 10(2) of Civil Procedure Code, to implead them as necessary parties to the



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proceedings that they have purchased some of the properties even prior to the filing of the suit. That application was dismissed by the trial Court that these petitioners have already filed a suit in O.S.No.329 of 2018 to set aside the preliminary decree passed in O.S.No.14 of 2008 and therefore they are not necessary parties for the final decree proceedings. Aggrieved over the same, the present Civil Revision Petition is filed.

3.This Court considered the submissions of the learned counsel appearing for the petitioner and also perused the materials placed on record.

4.It appears that these petitioners are none other than the sons of the second defendant, namely, Aavudaiyammal. The said Aavudaiyammal as the second defendant has contested the suit in O.S.No.14 of 2008 during the preliminary decree. Aavudaiyammal has



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filed written statement and thereafter failed to follow up with the case.

Hence, exparte preliminary decree was passed. The petitioners have also filed a suit in O.S.No.329 of 2018 to declare the decree passed in O.S.No.14 of 2008 as null and void. As the petitioners are having a remedy in O.S.No.329 of 2018, there is no necessity to implead them as necessary parties to the proceedings in I.A.No.523 of 2014 and the trial Court has rightly dismissed the application. Therefore, this Court is not inclined to interfere with the order of the trial Court.

5.Accordingly, this Civil Revision Petition is dismissed.

The petitioners shall work out their remedy in O.S.No.329 of 2018, which is pending before the Sub Court, Srivilliputhur. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No.

Internet : Yes / No.

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The Additional Subordinate Court, Srivilliputhur



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B.PUGALENDHI, J.

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Order made in
CRP(PD)(MD)No.2384 of 2022 and
CMP(MD) No.11525 of 2022

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