



C.R.P.Nos.629 and 631 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.Nos.629 and 631 of 2022

and CMP.No.3240 of 2022

1.Prabavathy
2.Mahadevan
3.Ponnambalam @ Ponmudi
4.Velu @ Sundaravadivelu ... Petitioner in both petitions
Vs.

1.Usharani
2.Santhi
3.Jayanthi
4.A.Renu
5.Gopi ... Respondents in both petitions

6.S.Kalaiyarasi
... 6th Respondent in CRP.No.629/2022

Common Prayer: Civil Revision Petitions are filed under Article 227 of Constitution of India against the fair and decreetal order of the learned Additional District Judge (FTC), Vellore, Vellore District dated 11.11.2021 in I.A.No.21 and 2/2021 in O.S.No.176/2018.

For Petitioner in both petitions : Mr.K.Sivasubramanian

For RR1 to 3 in both petitions : Mr.V.Purushothaman

Page NO:1



WEB COPY



C.R.P.Nos.629 and 631 of 2022

For RR4 and 5
For RR6 in CRP.No.629/2022

: No appearance
:Mr.P.Suresh Babu

Common Order

The above Civil Revision Petitions are filed challenging the orders passed in I.A.No.21/2020 and 2/2021 in O.S.No.176/2018 dated 11.11.2021, whereby, both petitions were dismissed by the learned Judge, trial court.

2. The revision petitioners are defendants 1 to 4. In O.S.No.176/2018, plaintiffs 1 to 3/respondents 1 to 3 herein, filed Suit for Partition and other reliefs against the defendants.

3. In the above suit, the petitioners / defendants 1 to 4 filed I.A.No.21/2020 to include the properties purchased through Sale Deeds dated 19.02.1999 and 13.12.1996 as Item Nos.3 and 4 in the schedule of properties. They also filed I.A.No.2/2021 to implead the said subsequent purchaser / 6th respondent as party in the Suit.

Page NO:2



4. The learned Judge, trial court, after detailed enquiry, dismissed the above two applications. Challenging the same, the present revision petitions are filed by the defendants 1 to 4.

5. The learned counsel appearing for the revision petitioners would submit that I.A.Nos.21/2020 and 2/2021 are filed to make good their case at the trial and defendants cannot amend the plaint to include the properties and hence to shorten the litigation and to do complete justice to the parties, the said petitions are filed. Therefore, dismissal of the said I.As is non est in the eye of law.

6. The learned counsel appearing for the respondents/plaintiffs submitted that the plaint can be amended only at the instance of the plaintiffs and the defendants cannot seek to include a property in the plaint schedule and therefore, the Trial Court has rightly dismissed the petitions.

7. This Court has carefully considered the rival submissions and also perused the materials available on record.



WEB COPY

8. In the present case, the revision petitioners are the defendants 1 to 4 and they cannot seek to include the properties of the plaintiffs in the plaint schedule and if the properties were included in the suit, the Court below could not direct the plaintiffs to adduce evidence for the properties added by the defendants 1 to 4.

9. Further, the property sought to be added in question was sold to the third party. The application filed by the revision petitioners / defendants 1 to 4 to implead the subsequent purchaser as party in the suit, is also not maintainable and accordingly the petition was dismissed. More particularly, when the application for adding the property in question itself has been dismissed, the question of impleading the subsequent purchaser will not arise. Therefore, the learned Judge after considering all these aspects had rightly dismissed the applications, which does not require interference of this Court.



C.R.P.Nos.629 and 631 of 2022

10. In view of the above reasonings, the Civil Revision Petitions are dismissed. No costs. Consequently connected miscellaneous petition is closed.

05.03.2024

sk/nvsri

To

1. The Additional District Judge (FTC), Vellore,
Vellore District.

J.NISHA BANU,J.

Sk/nvsri

Page NO:5



WEB COPY



C.R.P.Nos.629 and 631 of 2022

C.R.P.Nos.629 and 631 of 2022

05.03.2024

Page NO:6