



C.R.P.(PD).No.791 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HON'BLE Mr. JUSTICE V. SIVAGNANAM

C.R.P.(PD) No.791 of 2024
and CMP.No.3907 of 2024

1. Kaliammal
2. Suresh
3. Shanthi

...Petitioners

Vs

1. Ramasamy
2. Mani
3. Nithya
4. Subramani

5. Kathirvel
...Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 22.12.2023 made in I.A.No.3 of 2022 in O.S.No.626 of 2020 on the file of the District Munsif Court, Senthamangalam.

For Petitioner : Mr.T.L.Thirumalaisamy

ORDER

Interlocutory Application filed by the petitioners for having the



5th respondent as 5th defendant in the suit was negated by the learned District Munsif Court at Senthamangalam vide its order dated 22.12.2023 in I.A.No.3 of 2022 in O.S.No.626 of 2020. The correctness of the said order is challenged in the present civil revision petition.

2. The plaintiffs herein have filed a suit against the respondents 1 to 4 herein before the District Munsif Court at Senthamangalam to declare the sale deed executed by them to be null and void. The defendants filed their written statement in the suit. The second respondent has filed a detailed written statement.

3. Immediate cause for filing interlocutory application to implead the 5th respondent as 5th defendant in the suit is the averment made by the 2nd respondent/2nd defendant in the additional written statement, wherein the 2nd respondent has averred that the suit property was sub divided into various survey numbers and 5th respondent has got separate patta for one such survey number. The reference made by the 2nd defendant to the 5th respondent herein to have obtained a separate patta made the petitioners to file I.A.No.3 of 2022 to implead the 5th respondent as 5th defendant. The respondents 1 to 4 herein have filed a



counter affidavit to the interlocutory application. The learned trial Judge has negatived the prayer sought for by the petitioners herein on the ground that the plaintiffs themselves have not sought for any relief against the 5th respondent in the plaint. Challenging the said order the present civil revision petition has been filed.

4. The learned counsel for the petitioner submitted that the 5th respondent is a necessary party to decide the lis between the parties. The 2nd respondent himself has admitted in the additional counter affidavit that the subject property has been sub divided into various survey numbers and the 5th respondent has obtained patta from the Government authorities in respect of one such survey number. Therefore, the 5th respondent should also to be heard while deciding the correctness of the sale deed executed by the respondents 1 to 4.

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

6. But for the averments made by the second respondent in the additional counter affidavit, the petitioners were not aware that the 5th



C.R.P.(P.D).No.791 of 2024

respondent herein obtained a separate patta in respect of one of the sub divided property in the subject property. The petitioners should have been vigilant enough to identify the necessary parties against whom they seek the relief. The plaintiffs cannot shoot from the shoulders of the defendants and take advantage of the averments made in the written statement. The main relief is only to test the validity of the sale deed executed by the defendants 1 to 4. The 5th respondent is not a necessary party to decide the lis between the parties.

7. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, this Civil Revision Petition stand dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

12.03.2024

dpq
Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No

To

The District Munsif Court,
Senthamangalam.



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C.R.P.(P.D).No.791 of 2024

V. SIVAGNANAM, J.

dpq

C.R.P.(PD) No791 of 2024

12.03.2024