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C.R.P.No.1156 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.1156 of 2024

and

C.M.P. No.5951 of 2024

V. Bangaru (died)

1. Santhi D/o. Late V. Bangaru,
2. Chitra D/o. Late V. Bangaru
3. Padma D/o. Late V. Bangaru

... Petitioners

Vs.

C. Durai (died)

1. S. Ragupathi S/o. Siddhan
2. P. Jaganathan S/o. Palanisamy
3. Alamelu W/o. Raju @ Rangureddi

A. Chandrasekaran (died)

4. Pappu W/o. Late Durai
5. Ramkumar S/o. Late Durai
6. Thilagam W/o. Late A. Chandrasekaran
7. Yasodapriya D/o. Late A. Chandrasekaran
8. Ranganayagi D/o. Late A. Chandrasekaran
9. Pasupathirajan S/o. Late A. Chandrasekaran
10. Kutti S/o. Vaithy
11. B. Kumar S/o. Late V. Bangaru

...Respondents



C.R.P.No.1156 of 2022.

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to fair and decreetal order in I.A. No.9 of 2022 in O.S. No.311 of 2008 dated 21.06.2023 on the file of the learned District Munsif, Sankari.

For Petitioner : Mr. Marudhachalamurthy

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioners seeking to implead 10th respondent Kutti herein as a party defendant in Suit.

2. The petitioner's father V. Bangaru filed a Suit for bare injunction in O.S. No.311 of 2008. Pending Suit, he died and the petitioners were brought on record as legal representatives. Thereafter, the petitioners filed the instant application to implead the 10th respondent as party defendant in the Suit. The same was dismissed by the Trial Court. Aggrieved by the same, the petitioners are before this Court.

3. In the affidavit filed in support of the impleading petition, it was stated by the petitioners that the father of the petitioners filed a Suit for



injunction against the proposed party in O.S. No.143 of 2011 and the same was dismissed for default. The petitioners also filed a petition to restore the said Suit and the same was also dismissed for default. When the petitioners were taking steps to restore the Suit, the proposed party created a sham and nominal Sale Deed dated 08.02.2010 and hence the instant application has been filed to implead him as a party defendant in the present Suit for bare injunction.

4. It is admitted by the petitioners in the affidavit filed in support of the petition that the Suit for bare injunction against the proposed party was dismissed for default and the restoration application filed by the petitioners was also dismissed for default. In such circumstances, instead of restoring the Suit for injunction filed against the proposed party, the defendants are not entitled to implead him as party defendant in the present injunction Suit. In the affidavit filed in support of the impleading application, there is no fresh allegation against the proposed party as if he attempted to interfere petitioner's possession. Further the petitioners admitted that the Suit for permanent injunction filed against the proposed party was dismissed for default and the



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restoration application was also dismissed for default. In such circumstances, instead of restoring earlier Suit, they cannot implead the proposed party in the present Suit for injunction filed against others. Therefore, I do not find any error in the order passed by the Trial Court dismissing the application filed by the petitioners seeking to implead 10th respondent Kutti herein as a party defendant in Suit.

5. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

The District Munsif, Sankari.



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S.SOUNTHAR, J.
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