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C.R.P.(PD).No.1470 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.1470 of 2024 &
CMP.No.7907 of 2024

S.Mohanraj

... Petitioner

-Versus-

1.R.Palanisamy
2.K.Sabapathy
3.Maragatham
4.K.Kathirvel
5.K.Venkudusamy
6.K.Aruchamy
7.K.Sivasamy
8.K.Sundaram

... Respondents

Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decretal order dated 27.11.2023 made in I.A.No.2 of 2023 in O.S.No.86 of 2014 on the file of III Additional District Judge, Coimbatore.

For Petitioner : Mr.S.Sathish



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ORDER

O.S.No.86 of 2014 is a suit for specific performance of the agreement of sale. The petitioner herein filed an application in I.A.No.2 of 2023 to implead himself in that suit.

2. In a suit for specific performance, a person who is not a party to the document is neither necessary nor proper to the proceedings. Applying this principle, the learned III Additional District Judge dismissed the application, against which the present revision.

3. Mr.S.Sathish would vehemently contend that the civil revision petitioner/Mohanraj has already filed a suit in O.S.No. 483 of 2014 seeking relief of partition and therefore, he is a proper and necessary party to O.S.86 of 2014. He would then plead that O.S.No.483 of 2014 should be tried along with O.S.No.86 of 2014.

4. As I have already pointed out, in a suit for specific performance, there is no role for a third party to interfere. It is for him to file an appropriate



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application or memo before the learned District Judge and if the District Judge is convinced that there are commonalities among the issues, she can club them together and dispose them by way of a common judgment.

5. It is not for this Court to give a direction as to how the learned District Judge should decide whether to club the suits or not. This is entirely the discretion of the learned District Judge. Suffice it for this revision, the petitioner is not a proper and necessary party to the suit. Hence, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.04.2024

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order

To

The III Additional District Judge, Coimbatore.



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V.LAKSHMINARAYANAN, J.

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