



C.R.P.No.1285 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. No.1285 of 2021

and

C.M.P. No.10052 of 2021

1. Muthuvel (died) S/o. Arjunan
2. Nallammal W/o. Subramanian
3. Balan S/o. Subramanian
4. Muthamizh Selvi W/o. Periyasamy
5. G. Pappathi
6. C. Gandhi
7. D. Ponnarumbu
8. M. Annadurai
9. M. Elangovan
10. M. Asaithambi
11. M. Anantharaja
12. M. Elayaraja
13. M. Elamparuthi

[Petitioners 5 to 13 are brought on record vide
order dated 13.02.2024 in C.M.P. No.21857 of 2022]

... Petitioners

vs.

1. Kalyana Sundaram
Family Manager
S/o. Late Arumugham

Periyasamy (died) S/o. Arjunan



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2. Sivabakkiyam W/o. P. Thangadurai
3. Chennan S/o. Marudhai
4. Rengaraj S/o. Periyasamy
5. The District Collector, Perambalur.
6. The Revenue Divisional Officer, Perambalur.
7. The Tahsildar,
Perambalur Taluk,
Perambalur District.

8. Panjavarnam W/o. Arjunan
 9. Rajina W/o. Palraj
- [Cause title amended vide order made in
C.M.P. No.2123 of 2024]

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order of the learned Principal District Munsif at Perambalur dated 06.03.2020 in I.A. No.552 of 2015 in O.S. No.555 of 2013.

For Petitioners : Mr. P. Valliappan, Senior Counsel
for Mr. T. Deeraj

For Respondents : Ms. Santhanamari [for R1, R3, R4 &
R8 & R9]

Dr. S. Suriya,
Additional Government Pleader
[for R5 to R7]

R2 – Served - No appearance.



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ORDER

WEB COPY The Civil Revision Petition is filed challenging the order passed by the Trial Court allowing the impleading application filed by the 1st respondent.

2. The petitioners herein filed a Suit for Partition against the respondents 2 to 7. In the said Suit, trial is not yet commenced. The 1st respondent filed the instant application seeking impleadment.

3. It is the case of the 1st respondent that the suit properties were orally divided between Periyasamy / 1st defendant and his brothers namely, the 1st petitioner, deceased Subramaniam, husband of the 2nd petitioner and the father of the 3rd and 4th petitioners in the year 1980 and the suit property was allotted to the share of 1st defendant. Thereafter, the 1st defendant sold the suit properties to one Arumugam under an unregistered Village Muchaliga on 29.06.1993. The 1st respondent claiming himself as the son of Arumugam, filed the instant application on the ground that he has been in possession and enjoyment of the suit property as a family manager after the death of the above said Arumugam. The Trial Court allowed the impleading application, aggrieved by which, the petitioner is before this Court.



4. The learned counsel for the petitioners submitted that the 1st respondent is claiming right over the suit property under an unregistered document and the same will not convey any title to him. In such circumstances, there is no necessity to implead him as party defendant in the suit. It is also the contention of the learned counsel appearing for the petitioners that the petitioners as a *dominus litis* cannot be compelled to implead the 1st respondent in a Suit for partition filed by them.

5. The 1st respondent is claiming right over the suit property under an unregistered Village Muchaliga executed in favour of his father dated 29.06.1993. It is the specific case of the 1st respondent that from that day onwards, his father and himself has been in possession and enjoyment of the Suit property without any interruption or obstruction from anybody. Therefore, the 1st respondent is asserting adverse title over the suit property under an unregistered document. In view of the fact that the 1st respondent was claiming that had been in possession and enjoyment of the suit property from the year 1993 and in order to comprehensively decide the lis, it is better to have adjudication in the presence of the 1st respondent. Otherwise at the



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time of execution, the 1st respondent may file an obstruction petition and drag on the proceedings. The 1st respondent is a proper party to the suit, though he may not be a necessary party. Therefore, the Trial Court rightly allowed the impleading application filed by the 1st respondent and I do not find any irregularity or illegality in the order of the Trial Court warranting any interference in revision.

6. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
mjs

To

The Principal District Munsif, Perambalur .



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S.SOUNTHAR, J.

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