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C.R.P.No.2650 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.07.2024

C O R A M:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.2650 of 2024
and C.M.P.No.13869 of 2024

S.Thillaikarasi

... Petitioner

Vs.

1.M.Arul
2.M.Sivakumar
3.Minor S.S.Shadana Sri
4.Minor S.S.Samuktha Sri
5. Minor S.S.Nakshatra Sri
(Minors 3 to 5 are represented by their
Guardina/Mother S.Shanthi)
6.Ravivarma
7.Sakthivel
8.Krishnamoorthy
9.Gobi
10.Ramesh
11.Chakkaravarthy

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and final order dated 03.04.2024 made in I.A.No.2 of 2023 in O.S.No.226 of 2017 on the file of the III Additional District Court, Salem.

For Petitioner : Mr.D.Sathya

ORDER

This Civil Revision Petition has been filed as against the order dated 03.04.2024 made in I.A.No.2 of 2023 in O.S.No.226 of 2017 passed by the learned III Additional District Court, Salem.



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2. O.S.No.226 of 2017 is a suit for partition and separate possession seeking 1/3rd share for the plaintiff, and for declaration that the settlement deed executed by the grandfather Thethiyagounder in favour of the second defendant and Will executed by Thethiyagounder in favour of the second defendant are not genuine and not binding on the plaintiff. It also seeks for a declaration that the gift deed executed by the 2nd defendant in favour of defendants 3 to 5 is not binding on the plaintiff.

3. Pending the suit, the plaintiff/civil revision petitioner filed an application to implead the tenants of the suit schedule mentioned property as a parties to the suit. The learned District Judge dismissed the application, against which, the revision petition.

4. Heard Mr.Sathya for the petitioner.

5. In a suit for partition, unless and until the plaintiff seeks for mesne profits as against the proposed defendants, impleading the tenants is not necessary. The tenants are neither necessary nor proper parties in such a suit. The plaintiff, for the reasons best known to her, has not sought for mesne profits. Furthermore, pending the suit, three witnesses had already been examined and the suit is in an advanced stage of trial. At this stage, if tenants



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who are not necessary parties are impleaded to the suit, it only results in the proceedings being dragged on. It is better for the plaintiff to contest the suit on merits and take a judgment and decree in her favour.

6. I do not find any reason to interfere with the order of the learned III Additional District Court, Salem, coming to the conclusion that the tenants are not proper and necessary party to the proceedings.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

19.07.2024

msv

Index:Yes/No

Internet:Yes/No

Speaking order: Non-speaking order

Neutral Citation: Yes/No

To

III Additional District Court, Salem.



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V.LAKSHMINARAYANAN,J.

Msv

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