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C.R.P.(PD).No.2357 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2357 of 2021
and CMP.No.17869 of 2021

Ramachandran

... Petitioner

vs.

1.Manokaran

2.Dhinakaran

Prabhakaran (died)

3.Baskaran

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 20.11.2019 made in I.A.No.22 of 2015 in A.S.No.49 of 2014 on the file of the learned Additional District Court (Fast Track Court) Villupuram by allowing this Civil Revision Petition.

For Petitioner

: Mr.N.Manokaran

For Respondents

: Mr.M.S.Umesh

for M/s.P.Dinesh Kumar for R1

No appearance for R2 and R3



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ORDER

Civil Revision Petition is filed challenging the order passed by the trial Court, dismissing the petition for impleading filed by the petitioner to implead himself as a party defendant in an appeal filed against final decree for partition.

2. The second respondent herein filed a suit for partition in O.S.No.7 of 2008 on the file of the Subordinate Court, Kallakurichi. After passing of preliminary decree for partition, the second respondent filed application for passing of final decree in I.A.No.553 of 2010 and the same was allowed and final decree was passed allotting the portion marked as A, B, C and D in sketch No.1 along with incidental right to the second respondent/plaintiff. Aggrieved by passing of final decree, the first respondent herein filed an appeal in A.S.No.49 of 2014, on the file of the Additional District Court, Villupuram and the same is pending. The petitioner herein claiming himself as a purchaser of the portion of the suit property from other sharers namely the respondents 3 and 4 filed the instant



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application seeking for his impleadment in the appeal filed by the first respondent herein against the final decree passed in the partition suit.

3. It is specific case of the petitioner that he purchased portion of the suit property and hence, he is entitled to claim equity in allotment.

4. It is seen from the grounds raised by the petitioner in his memorandum of grounds of revision, petitioner herein is a pendente lite purchaser. It is settled law, the pendente lite purchaser is bound by the decree passed in the suit. In the case on hand, the preliminary decree for partition was passed even in the year 2010 and the final decree application for passing of final decree was filed as early as 28.07.2010. The final decree was passed as early as on 13.08.2013. Aggrieved by the final decree, the first respondent preferred an appeal and the present application has been filed by the petitioner claiming himself as a purchaser seeking his impleadment in the first appeal.



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5. The learned counsel appearing for the petitioner submits that

he is entitled to seek equity in the final decree proceedings. The learned counsel appearing for the petitioner pressed into service Thomsan Press Case reported in 2013 (5) SCC 397. In that case, Apex Court had held that in a suit for specific performance, a pendete lite purchaser, who purchased suit property violating interim order passed in the suit was a necessary party in the light of Section 19 of Specific Relief Act. The said case law will not help the petitioner in a partition suit. Further, in the case on hand final decree already passed and present impleading petition is filed pending appeal against final decree.

6. As a pendente lite purchaser, the petitioner is not entitled to seek any equity in his favour. Further, the final decree was already passed, now the present appeal is filed challenging the final decree. At this belated stage, it is not open to the petitioner to raise any plea claiming equity that too as a pendente lite purchaser.



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7. A perusal of impugned order would suggest, the trial Court considering the description of the property found in the sale deed in favour of the petitioner came to the conclusion that the petitioner has not proved that he purchased portion of the suit property.

8. In such circumstances, I do not find any error in the order passed by the trial Court and as a consequence the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.02.2024

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

The Additional District Court (Fast Track Court)
Villupuram.



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S.SOUNTHAR, J.

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