



C.R.P.(PD).No. 3415 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

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THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No. 3415 of 2024

&

C.M.P. No. 18477 of 2024

G.Arunkumar

...Petitioner

Vs.

1.Gnanasekar

2.Ulaamani

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order made in I.A.No.2 of 2022 in I.A.No.1 of 2019 in O.S.No.12 of 2019 dated 04.04.2024 on the file of the District Judge, Tirupattur.

For Petitioner : Mr. S.Malarmannan



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ORDER

This Civil Revision Petition arises at the instance of a third party.

2. O.S.No.12 of 2019 is a suit for partition filed by the 1st respondent against the 2nd respondent. The 1st respondent claims 2/3rd share in the suit schedule property. A preliminary decree was passed on 10.07.2019 and in order to put the same into effect, final decree proceedings have been initiated.

3. The sole defendant took out an application to set aside the ex parte decree together with application for condonation of delay. The said petition was dismissed on 03.11.2022. Thereafter, a Civil Revision Petition was preferred before this Court in C.R.P.No.4167 of 2022, which was also dismissed on 16.12.2022. In other words, the preliminary decree passed by the Trial Court has attained finality.



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4. Claiming that he has right over the suit property, by virtue of an agreement of sale entered on 01.08.2012, the civil revision petitioner filed an application to implead himself in the said proceedings. It is not in dispute that the suit for specific performance of agreement dated 01.08.2012 is pending in O.S.No.18 of 2013 before the Subordinate Court, Thirupathur. The learned counsel would submit that subsequently, the said suit was transferred and re-numbered as O.S.No.57 of 2019 on the file of the Additional District Court III, Thirupathur. The civil revision petitioner would therefore want to implead himself in the suit for partition.

5. In a suit for partition, the person who has purchased the property has right to the same. An agreement of sale does not confer any interest in the immovable property. This is clear from a reading of Section 53 of the Transfer of Property Act. Therefore, there is no interest of the petitioner as of today in the property for him to be impleaded.



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6. The learned counsel for the petitioner would submit that in case final decree is passed, it will affect the rights of the petitioner. I am not in agreement with the learned counsel for the simple reason that his suit in O.S.No.18 of 2023 is an earlier suit and in case he succeeds, he will always be entitled to put the same into execution for the mere fact that the property which has been divided subsequently will not affect his rights. The civil revision petitioner is neither a proper nor necessary party to the proceedings. I do not find any reason to interfere with the order passed by the learned District Judge, Tirupathur.

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

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Index : Yes/No
Internet : Yes/No
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To

The District Judge,
Tirupattur.



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V.LAKSHMINARAYANAN, J.

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