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C.R.P.No.4462 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4462 of 2024
and C.M.P.No.24879 of 2024

Vijaya Kumar

.. Petitioner

Versus

1.Ramanujan K.S.
2.Sudha Vasudevan

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 23.10.2024 passed in I.A.No.3 of 2024 in O.S.No.273 of 2024 by the learned Additional District Judge at Hosur.

For Petitioner : Mr.Praveen Alexander

ORDER

This civil revision petition arises against the order of the learned Additional District Judge, Hosur in I.A.No.3 of 2022 in O.S.No.273 of 2024 dated 23.10.2024.



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2. O.S.No.273 of 2024 is a suit for partition and separate possession.

According to the plaintiff, the properties belonged to one Sarangapani. Sarangapani had come across the property by virtue of a partition deed amongst his siblings. Sarangapani died on 06.07.2005. He left behind as his legal heirs, the plaintiff, the defendant and his wife. Tmt. Janaki Sarangapani passed away at least a decade ago on 14.08.2012.

3. The plaintiff pleaded that a misunderstanding arose with his sister, and therefore, they could not continue the joint possession of the suit properties. Hence, he presented the suit for the aforesaid reliefs.

4. On receipt of summons, the defendant had filed a written statement. Pleadings were completed and the parties have also tendered their evidence. At that stage, the civil revision petitioner filed I.A.No.3 of 2024 seeking to add himself as a defendant to the suit.

5. The plea of the civil revision petitioner is that he obtained a power of attorney from the plaintiff and the defendant in order to manage and develop the suit schedule mentioned properties. The same was registered in



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Doc.No.614 of 2021 on the file of the Sub Registrar at Bhommanahalli in the State of Karnataka. He pleaded that the plaintiff and the defendant colluded with each other and cancelled the power document without proper notice to him. Therefore, he wanted to implead himself as a party to the suit.

6. This petition was resisted by the plaintiff by filing a detailed counter. The plea of the plaintiff is that the general power of attorney, which has been issued in favour of the civil revision petitioner, was cancelled on 30.04.2024 and an intimation was given to the petitioner on 06.05.2024. He further pleaded that the parties to the partition suit had presented a suit in O.S.No.353 of 2024 for cancellation of the sale deed that had been executed by the civil revision petitioner, as the power agent, in favour of his wife, Veena and one Susithra.

7. The learned Trial Judge, after considering the affidavit and counter, came to a conclusion that the petitioner is not a proper and necessary party to the suit. She dismissed the petition by way of a reasoned order on 23.10.2024. Hence, the revision.



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8. Mr.Praveen Alexander pleads that as the civil revision petitioner is a power agent of the plaintiff and the defendant and as he has spent considerable amount of money in development of the properties, he has to be impleaded as second defendant in the suit. He adds that he has presented a suit in O.S.No.106 of 2024 on the file of the learned District Munsif at Hosur for a declaration that the cancellation of power of attorney dated 30.04.2024 is null and void. He also points out that another suit is pending between the parties in O.S.No.353 of 2024 on the file of the Additional District Judge at Hosur and therefore, a joint trial may be ordered for all the proceedings.

9. I have carefully considered the submissions of Mr.Praveen Alexander and have gone through the records.

10. Here is a simple suit for partition. There is no dispute in the relationship between the first and second respondents. Both of them are the children of one Sarangapani and the properties are belonged to the said Sarangapani. Sarangapani, having died intestate, and one of his legal heirs namely, his wife Janaki Sarangapani also having died, there are only two



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legal heirs to succeed to the properties of Sarangapani, namely the plaintiff and the defendant.

11. In this suit, at the stage of preliminary decree, all that the court would have to decide is as to what is the share that the plaintiff and the defendant. Even in the absence of the civil revision petitioner, the court can still decide this issue. In a suit for partition, a power agent of the plaintiff and the defendant cannot be considered as a proper and necessary party. A necessary party is one without whom the court cannot pass a decree in the suit. As pointed out above, the learned Additional District Judge can still pass a decree in O.S.No.273 of 2024 in the absence of the power agent.

12. The power of attorney, on the basis of which Mr.Praveen Alexander's client claim a right, has also been cancelled. The contract, which existed between the respondents and the civil revision petitioner, has come to an end on 30.04.2024. Unless and until, the suit in O.S.No.106 of 2024 ends in a decree in favour of the civil revision petitioner, he will not have claim over the property. That being the situation, I do not find any reason to differ from the reasoning given by the learned Additional District judge, Hosur.



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13. This civil revision petition is dismissed. No costs. Consequently,
the connected miscellaneous petition is closed.

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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no



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V.LAKSHMINARAYANAN, J.

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To

The Additional District Judge, Hosur.

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