



C.R.P.(PD).No.4043 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.4043 of 2019
and CMP.No.26553 of 2019

1.Subramaniyan
2.Dhanaraj
3.Velmurugan
4.Sivakumar

... Petitioners

vs.

1.Marthal
2.Lawreancenathan
3.Merrychella
4.Sofiya
5.Ananth
6.Perkmansmary
7.Rejinamary

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.1295 of 2018 in O.S.No.250 of 2016 dated 05.09.2019 on the file of the I Additional District Munsif Court, Kallakurichi by allowing the present Civil Revision Petition.

For Petitioners : Mr.R.Jayaprakash

For Respondents : Not ready in notice R1 to R7



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the trial Court allowing the application filed by the first respondent seeking to implead himself as a party defendant in the suit.

2. The petitioners herein filed a suit seeking declaration of title and injunction against the respondents 2 to 7. The first respondent herein claiming himself as a co-owner of the property along with other respondents having 1/6th share filed the instant application seeking his impleadment. It was his case that he filed a suit for partition against the other respondents in O.S.No.57 of 2010 on the file of the Principal District Munsif, Kallakurichi and the same was dismissed. Challenging the said judgment and decree, he filed an appeal in A.S.No.4 of 2014 on the file of the Subordinate Court, Kallakurichi and the said appeal was allowed by granting preliminary decree for 1/6th share in favour of the first respondent. On the strength of the preliminary decree in his favour, the first respondent has filed the instant application seeking his impleadment as a party defendant.



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3. It is settled law, the Co-owner is having share in each inch of the property. The first respondent had obtained only preliminary decree for partition and his share is not yet ascertained by metes and bounds. In such circumstances, in a suit for declaration and injunction filed by the petitioners against the other respondents, the first respondent is a necessary party and any decree passed in the suit will affect his rights. Therefore, the trial Court, rightly allowed the application filed by the first respondent seeking his impleadment.

4. I do not find any error in the order passed by the trial Court, accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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S.SOUNTHAR, J.

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To

The I Additional District Munsif Court,
Kallakurichi.

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