



C.R.P.(PD).No.5066 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 16.12.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.5066 of 2024
and
C.M.P.No.28393 of 2024

J.Vasantha

... Petitioner

..Vs..

1.P.Balakrishnan
2.P.Mohan
3.P.Poongavanam
4.P.Chellammal
5.P.Krishnaveni
6.Annakkili
7.Ranjeetham
8.P.Neelavathy
G.Selvam (Died)
G.Selvaraj (Died)
G.Pushparaj (Died)
G.Sigamani (Died)
9.G.Jayaseelan



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10.Palani Chettiar

11.S.Yuvaraj

12.K.Damodaran

13.The District Collector,
Tiruvallur District, Master Plan Complex,
District Collectorate, Tiruvallur – 602 001.

14.George

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 28.08.2024 passed in I.A.No.1382 of 2014 in O.S.No.117 of 2013 by the Principal District Munsif, Tiruvallur.

For Petitioner : Mr.P.Mohan Kumar

For R13 : Mr.N.Muthuvel,
Government Advocate

ORDER

This Civil Revision Petition arises against the order of the learned Principal District Munsif at Tiruvallur in I.A.No.1382 of 2014 in O.S.No.117 of 2013 dated 28.08.2024.



2. The civil revision petitioner is the plaintiff in the suit. O.S.No.117 of 2013 is a suit for partition and several other declaratory reliefs, including to set aside the sale deeds said to have been executed by the defendants 2 to 4 in favour of the first defendant.

3. Earlier, the respondent Nos.1 to 6 had presented a suit for declaration of title and for injunction against the first defendant in the suit. Their claim was that their predecessor-in-title had purchased the property on 16.05.1957 from one Krishnadevaraju. The claim of the first defendant, in that suit was that, her father Govindaraju had purchased the property from one Kamalammal under Ex.A36.

4. The learned Trial Judge, after detailed examination, came to a conclusion that a purchase made from some of the legal heirs, excluding the other legal heirs, cannot be treated as the binding one. Therefore, dismissed the suit filed by the first defendant and decreed the suit for title filed by the respondent Nos.1 to 6 herein.



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5. On coming to know that the civil revision petitioner had presented a suit for partition for the very same property over the portion, for which they have been empowered with a declaration of title, the respondent Nos.1 to 6 filed an application for impleading themselves in the suit.

6. The said application was resisted by the civil revision petitioner stating that in a suit for partition, all the parties are deemed to be co-sharers, and the presence of respondent Nos.1 to 6 are not necessary for complete adjudication of the proceedings. They also pleaded that the application had been filed with delay in order to drag on the proceedings.

7. Unfortunately, the application had been kept pending for more than a decade. It was taken up for disposal by the learned Trial Judge, in the year 2024 though, the application had been filed in the year 2014. Considering that the proposed parties (i.e., the respondent Nos.1 to 6 herein) have been empowered with a decree in O.S.No.193 of 1995, the learned Trial Judge allowed the application. Hence, this revision.



8. I heard Mr.P.Mohan Kumar in support of the civil revision petitioner.

9. Mr.P.Mohan Kumar pleads that the decree in O.S.No.193 of 1995 and O.S.No.337 of 1995 cannot be considered binding on the plaintiff, since, she was not a party to the aforesaid suits. Hence, he argued that the presence of the respondents 1 to 6 in this suit is neither essential nor necessary.

10. I have carefully considered the submission of Mr.P.Mohan Kumar.

11. The basis on which the suit for partition has been filed is that one Govindaraju had purchased the property from Kamalammal and had died intestate leaving behind his wife and children to succeed to his estate. When the defendant Nos.2 to 4 had executed a sale deed in favour of the first defendant, they had not made the plaintiff as a party to the suit. Hence the plaintiff seeks to have a share in the property.

12. The case of the respondent Nos.1 to 6 herein is that Govindaraju himself does not have title to the property, as the property, belongs to one Krishnadevaraju. He had executed a sale deed with respect to the suit



schedule mentioned property in favour of their predecessor-in-title. It is the categoric case that Govindaraju did not have title to this property.

13. When the very same stand sought to be projected by the plaintiff herein was projected by the first defendant therein, the learned Trial Judge came to a conclusion that a person from whom Govindaraju (father of the plaintiff) claims had no title to the property. This finding is said to be a subject matter of the challenge before the Subordinate Court at Tiruvallur in A.S.10 of 2011. The present suit for declaration of title had been filed, 2 years after the presentation of the First Appeal before the Subordinate Court. A proper person is one, without whose presence, if a decree is passed, the adjudication would be incomplete.

14. The issue in this suit whether Govindaraju has title to the property or not. Can be answered, only if the purchasers from Krishnadevaraju are before the Court. Otherwise, it leads to multiplicity of proceedings. If the plaintiff were to succeed in this suit, she would obviously make a claim over the property over which, the respondent Nos.1 to 6 have already got a decree



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in their favour.

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15. Utter confusion would prevail on the ground. It is better that the respondent No.1 to 6 come on record and the plaintiff get a binding decree on them also. I do not find any reason to take a different view than the view taken by the learned Trial Judge.

16. Accordingly, the Civil Revision Petition is dismissed. No costs.

16.12.2024

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

To

1. The Principal District Munsif,
Tiruvallur.

V.LAKSHMINARAYANAN, J.



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