



CRP No.5071 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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K.S.Muthukumar

... Petitioner

Vs.

1.Kaliammal
2.Dhanalakshmi
3.Logamani
4.M.Ashok Kumar
5.M.Prabhakaran
6.S.Ram Prakash

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside fair and decreetal order in IA No.3 of 2022 in OS No.174 of 2015 dated 12.09.2023 on the file of the Sub, Court, Tiruchengode.

For Petitioner

: Mr.Kamaraj
for Ms.K.Padmapriya



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ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order in IA No.3 of 2022 in OS No.174 of 2015 dated 12.09.2023 on the file of the Sub, Court, Tiruchengode.

2. The petitioner is the plaintiff, and the respondents 1 to 3 are defendants in OS No.174 of 2015 on the file of the Sub, Court, Tiruchengode. The petitioner filed the suit seeking to declare the Will executed in his favour as valid and to declare certain Settlement Deeds as "Null and Void". Pending trial, during cross examination, the petitioner herein came to know that defendants 2 and 3 have executed settlement deed in favour of their sons namely proposed defendants 4 to 6. Hence, the petitioner had filed an interlocutory application under Order I Rule 10(2) of CPC in IA No.3 of 2021 seeking to implead the sons of defendants 2 and 3 as defendants 4 to 6. The said application was dismissed by the trial court on 12.09.2023 on the ground that the defendants 2 and 3 executed a



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settlement deed based upon their settlement deed in favour of proposed defendants 4 to 6. The settlement deed in favour of defendants 2 and 3 is challenged in the suit. In the suit, it is also an issue about the validity of the settlement stands in the name of defendants 2 and 3. Therefore, the proposed defendants 4 to 6 are only settlee of the defendants 2 and 3. Therefore, they are not necessary parties to adjudicate the issue involved in that case. Aggrieved by the said order, the petitioner has filed the present civil revision petition.

3. Learned counsel for the petitioner submits that pending suit, the defendants 2 and 3 have executed a settlement deed in favour of defendants 4 to 6. Therefore, they are necessary parties to be impleaded in the suit. However, the Trial Court, without considering the contentions raised by the petitioner, has dismissed the said application. Hence, the order passed by the Trial Court is liable to be set aside.



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4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The facts reveal that the petitioner is the plaintiff and respondents 1 to 3 are the defendants in OS No.174 of 2015 on the file of the Sub Court, Tiruchengode. The suit is filed by the petitioner/plaintiff seeking to declare the Will executed in his favour as valid and to declare certain Settlement Deeds as "Null and Void". Pending trial, during cross examination of the plaintiff as PW1, the petitioner came to know that defendants 2 and 3 have executed a settlement deed in favour of the proposed defendants 4 to 6. Hence, the petitioner filed an application in IA No.3 of 2022 to implead them as defendants 4 to 6, which was dismissed by the trial court, on the ground that they are not necessary parties since the settlement in favour of defendants 2 and 3 is itself an issue to be decided in the suit itself.

6. A '*necessary party*' is a person who ought to have been joined as a party and in whose absence, no effective degree could be passed at all by the



7. In this case, the proposed parties are not necessary parties and it does not meet the parameters laid down by the Hon'ble Supreme Court in the case of *Mumbai International Airport Pvt. Ltd vs Regency Convention Centra & Hotels & Ors* reported in *AIR 2010 SC 3109*. Therefore, there is no infirmity in the order passed by the trial court. I find no reason to interfere with the impugned order, as there is no merit in the revision. Hence, the civil revision petition is dismissed. There will be no order as to costs. Consequently, CMP No.29473 of 2023 is closed.

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Index: Yes/No
Internet: Yes/No
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V.SIVAGNANAM, J.,

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