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C.R.P.No.2962 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.2962 of 2018 and
C.M.P.No.17325 of 2018

J.Jayakumar

... Petitioner

Vs.

1.1.Manimegalai
2.Rajasekar
3.Thenmozhi
4.Govindaraj
5.Saravanan
6.Sengothai
7.Sumathi
8.Kumutha
9.Loganathan
10.Jayalakshmi
Lakshmanan (died)
11.Vijayakumar
12.Mathivanan
13.S.Anbazhagan
14.L.Shankar
15.L.Navinkumar
16.L.Vinoth Kumar

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decretal order made in I.A.No.715 of 2017 in



C.R.P.No.2962 of 2018

I.A.No.433 of 2015 in O.S.No.250 of 2010 dated 05.06.2018 on the file of the Additional District Munsif Court, Tirupathur, Vellore and praying to set aside the same.

For Petitioner : M/s.C,Krishnan
for M/s.C.Uma Shankar

For Respondent 1 to 3 : Mr.Vemkatesa Rao
for M/s.Elizabeth Rani

For respondents 4 : Served-No appearance

For respondents 5 to 9, : Dismissed vide court
R11 to 16

For respondent 10 :M/s.P.Kumaran

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the impleading application filed by the petitioner.

2. The respondents 1 to 3 filed a suit for partition claiming 3/16th share in the suit property against the other respondents. The preliminary decree in the suit was already passed and the matter is in the stage of final decree proceedings.



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3. It is seen from the impugned order that in the final decree proceedings, an Advocate Commissioner was appointed and he had also filed a report suggesting mode of division. On this stage, the petitioner filed an application to implead him as party defendant in the suit and the same was dismissed by the Trial Court. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel for the petitioner vehemently contended that the right of the respondents 1 to 3 over the suit property was negated in an earlier suit filed in O.S.No.249 of 2012 and therefore, the present suit has been filed by the respondents 1 to 3 in respect of the property over which they have no right and obtained a preliminary decree by suppressing the material facts. Therefore, the petitioner has to be included as party defendant.

5. The petitioner in his affidavit has not disclosed what is the interest of the petitioner over the subject matter of the suit property. Further, the petitioner failed to produce the judgment in O.S.No.249 of 2012 and the pleadings in the



C.R.P.No.2962 of 2013

said suit to enable the Trial Court to form an opinion whether the earlier findings in O.S.No.249 of 2012 will have a bearing on this suit. In these circumstances, the Trial Court rightly came to the conclusion that petitioner is not entitled to get himself impleaded in the partition suit that too in a final decree proceedings.

6. It is made clear that if it is the case of the petitioner that preliminary decree in the present suit has been obtained by the respondents by suppression of material facts and employing fraud, it is for the petitioner to initiate appropriate proceedings to set aside the preliminary decree in the manner known to law.

7. With these clarifications, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2024

Index : Yes / No
Internet : Yes / No
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To

The learned Additional District Munsif, Tirupathur, Vellore.



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S.SOUNTHAR, J.

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