



C.R.P.(MD)No.1064 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.1064 of 2019

and

C.M.P.(MD)No.5806 of 2019

P.Sivaraman Nadar ... Petitioner/ Defendant No.1 / Petitioner

Vs.

1.Anlet Viji Sekar, ... Respondent No.1/ Plaintiff/ Respondent

2.Kamila Nadathi, ... Respondent No.2/ Defendant No.2/
Respondent

3.Pushpa Leela,

4.Annelin,

5.Femelin,

6.Ballein,

7.Joselin ... Respondents / Proposed Defendants

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in O.S.No.160 of 2013 in C.F.1056 of 2019, dated 14.02.2019 and number the said I.A., on the file of the Sub Court, Kuzhithurai.

For Petitioner : Mr.C.Godwin

For Respondents : Mr.C.K.M.Appaji for R1

: No appearance for R2 to R7



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ORDER

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This Civil Revision Petition is directed against the order, in O.S.No.160 of 2013 in C.F.1056 of 2019, dated 14.02.2019, rejecting the application filed under Order I Rule 10 (2) of the Code of Civil Procedure, dated 14.02.2019, on the file of the Subordinate Judge, Kuzhithurai.

2. The first respondent as plaintiff has filed the above suit for partition against the revision petitioner as well as the second respondent and for allotment of 1 ½ cents. Pending the suit, the first respondent has filed the above application seeking to implead the proposed respondents 3 to 7.

3. It is evident from the records that in the earlier suit filed by the first respondent, he filed an application under Order XXIII Rule 1(3) C.P.C., in I.A.No.523 of 2012 seeking direction to withdraw the suit in O.S.No.407 of 2007 in I.A.No.523 of 2012, with liberty to file a fresh suit. The learned District Munsif, Kuzhithurai, after enquiry, has allowed the petition.

4. The learned counsel for the first respondent would submit



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that in pursuance of the leave granted in I.A.No.523 of 2012, dated 04.09.2013, the present suit came to be filed seeking for partition of the property, alleging that he has purchased a portion of the property from the first defendant. The revision petitioner filed an interlocutory application, seeking to implead the other defendants in O.S.No.407 of 2007. The learned trial Judge, by observing that it is not a regular suit for partition for severance of joint status, that the plaintiff being purchaser of the portion of the property owned by the defendant, the present suit came to be filed and as such, the other defendants in the earlier suit are not necessary and also by observing that the petition was filed only to drag on the proceedings, rejected the petition.

5. Considering the facts and circumstances of the case, the impugned order, rejecting the impleading petition cannot be found fault with. Therefore, the Civil Revision Petition is liable to be dismissed and the same is dismissed accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

13.03.2024

NCC :yes/No
Index :yes/No
NCC :yes/No
LS



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K.MURALI SHANKAR,J.

LS

To

1. The Sub Court,
Kuzhithurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
C.R.P.(MD)No.1064 of 2019

Dated : 13.03.2024