



C.RP(MD)No.1580 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1580 of 2024

and

C.M.P(MD).No.9351 of 2024

Jamuna (died)
Poonkodi

... Petitioner

Vs.,

1.Prema
Pitchai (died)
2.Dhanalakshmi
3.Amma Pillai
Mohammed (died)
4.Pandiarajan

...Respondent

Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decretal order in I.A.No.715 of 2018 in I.A.No.766 of 2014 in O.S.No.1104 of 2011 on the file of the II Additional Subordinate Court, Madurai, dated 01.12.2022 by allowing this civil revision petition.

For Petitioner	: Mr.K.Guhan
For Respondents	: Mr.V.S.V.Venkateshvaran (For R1) Ms.S.Latha (for R2)

ORDER

The civil revision petition is directed against an order dated 01.12.2022 made in I.A.No.715 of 2018 in I.A.No.766 of 2014 in O.S.No.1104 of 2011 on the file of the II Additional Subordinate Court, Madurai.



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2. The said I.A.No.715 of 2018 is filed by the first respondent herein/third party to implead herself as the sixth respondent in the final decree proceedings. The learned counsel for the petitioner would submit that the preliminary decree is already passed between the parties. The first respondent being a third party cannot implead herself in the final decree proceedings. Even if the property belongs to the first respondent, she can only claim that the decree between the parties is not binding on her and she cannot participate in the final decree proceedings. Therefore, the trial Court ought not to have impleaded the first respondent.

3. The learned counsel appearing on behalf of the respondents would submit that the property which is mentioned as item No.3 was the subject matter of the suit in O.S.No.521 of 1984. The first defendant in the suit, namely, Pitchai, who is the father of the petitioner herein, has entered into a sale agreement with one K.A.Mohamed and the said K.A.Mohamed filed the above suit in O.S.No.521 of 1984 and the same was decreed and in E.P.No.213 of 1985, the sale deed was executed in favour of K.A.Mohamed and delivery was also handed over to him through Court. Thereafter, the said K.A.Mohamed executed two sale deeds in favour of one Santhanammal and Pandiarajan. The said Santhanammal has executed a gift settlement deed in favour of the first



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respondent herein and Pandiarajan has executed the sale deed dated 31.05.1999 in his favour. The trial Court after considering the above facts has only ordered the impleading of the first respondent herein /third party.

4. Though the parties are contending that the third party has no business in the final decree proceedings and if at all, she has any claim, it has to be independently claimed by her in other proceedings, considering the overall facts and circumstances of the case and considering the fact that the property is the subject matter of an earlier suit of the year 1984 and the present suit being filed in the year 2011, when trial Court has thought it fit to implead the first respondent /3rd party at this stage, I am unable to interfere in the matter and the petitioner can raise all the objections before the trial Court with reference to the claim of the first respondent /third party and the same will be considered by the trial Court while considering the further proceedings in the final decree application.

5. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

19.07.2024

NCC:Yes/No



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Index: Yes/No

Rmk

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D.BHARATHA CHAKRAVARTHY, J.

Rmk

To

1.The II Additional Subordinate Judge, Madurai.

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