



C.R.P(MD)No.829 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.829 of 2018

and

C.M.P.(MD)No.3670 of 2018

Kasthuri : Petitioner/Petitioner/Plaintiff

Vs.

1.Kaliyappan

2.Sakthivel : Respondents 1 & 2/Respondents 1 & 2/
Defendants

3.Perumal

4.Raman

5.Sevakar

6.Iyer

7.Palani : Respondents 3 to 7/Respondents 3 to 7/
Proposed Defendants 3 to 7

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order passed in I.A.No.14 of 2016 in O.S.No.65 of 2014, dated 12.09.2017 on the file of the Sub Court, Kulithalai.



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For Petitioners : Mr.M.Sengu Vijay

For Respondents : Mr.G.Sridharan, for R3.

: No Appearance, for R1, R2 & R4 to R7.

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.14 of 2016 in O.S.No.65 of 2014, dated 12.09.2017 on the file of the Sub Court, Kulithalai, dismissing the petition filed under Order I Rule 10 of the Code of Civil Procedure.

2. The revision petitioner as plaintiff has filed the above suit for partition against the respondents 1 and 2. The petitioner, by alleging that the second defendant has sold the 'A' schedule property to the third defendant on 13.03.2015, has filed an application in I.A.No.212 of 2015 seeking to implead him in the suit and the same was ordered to be allowed and that thereafter, the petitioner, by alleging that the third defendant has sold the portion of the property to the respondents 4 to 7, has filed another application in I.A.No.255 of 2015.



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3. The learned counsel for the third respondent would submit that he sold the portion of 'A' schedule property only to Kullayee Amman temple represented by its trustees/respondents 4 to 7 and after raising objections, the petitioner has not pressed the petition and on that ground, the petition in I.A.No.255 of 2015 was dismissed as not pressed.

4. The petitioner/plaintiff has again filed another application in I.A.No.14 of 2016, seeking to implead the very same respondents 4 to 7 as subsequent purchasers from the third defendant.

5. As rightly contended by the learned counsel for the third respondent, even after not pressing the earlier petition, the petitioner/plaintiff has not impleaded the proper party ie., the temple, who purchased the portion of the property from the third defendant, despite a specific defence was taken. The learned trial Judge, by observing that since the earlier application for the very same relief was not pressed, the present petition cannot be legally entertained, dismissed the petition.



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6. The petitioner has not offered any reason or explanation for filing the present application in I.A.No.14 of 2016, claiming the very same relief, without seeking impleadment of the purchaser from the third defendant. It is not the case of the revision petitioner that the temple has not purchased the property and only the respondents 4 to 7/ trustees have purchased the property in their individual capacity.

7. When the matter is taken up for hearing today (i.e., 14.02.2024), the learned counsel for the petitioner as well as the learned counsel for the third respondent would submit that the petitioner may be directed to file another impleading petition before the trial Court seeking to implead the proper party i.e., the temple.

8. Considering the entire facts and circumstances of the case, the impugned order, dismissing the petition cannot be found fault with. Hence, this Court concludes that the civil revision is devoid of merits and the same is liable to be dismissed.



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9. In the result, the Civil Revision Petition is dismissed. The petitioner is at liberty to file a fresh petition seeking to implead the subsequent purchaser and on such an application is being filed, the learned trial Judge is directed to take the same on file and proceed further in accordance with law. Consequently, connected Miscellaneous Petition is closed. No costs.

14.02.2024

NCC :yes/No
Index :yes/No
Internet :yes/No
das

To

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



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K.MURALI SHANKAR,J.

DAS

Order made in
C.R.P.(MD)No.829 of 2018
and
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