



C.R.P.(MD) No.2110 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2024

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No.2110 of 2022

and

C.M.P.(MD) No.9742 of 2022

Karpaga Valli
W/o.Beethampara Krishnan

... Petitioner

Vs.

1.Thurai Raj
S/o.Yacob

2.Beethampara Krishnan
S/o.Gopala Krishnan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 02.09.2022 passed by the Additional District and Sessions Court, Padmanabhapuram, in I.A.No.3 of 2021 in O.S.No.114 of 2020.

For Petitioner : Mr.A.Balakrishnan

For R1 : Mr.S.C.Herold Singh

For R2 : No appearance



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ORDER

WEB COPY This Civil Revision Petition has been filed against the fair and decretal order dated 02.09.2022 passed by the Additional District and Sessions Court, Padmanabhapuram, in I.A.No.3 of 2021 in O.S.No.114 of 2020.

2. The suit in O.S.No.114 of 2020 was filed by the first respondent for recovery of money. During the pendency of the suit, the plaintiff filed an application in I.A.No.3 of 2021 under Order 1 Rule 10(2) of the CPC read with Section 51 of the CPC to implead the proposed party, i.e., the revision petitioner, as the second defendant in the suit. The trial court allowed the said application, against which the present Civil Revision Petition has been filed.

3. The learned counsel for the revision petitioner would submit that the revision petitioner is neither a necessary nor a proper party in the suit; that the dispute is between the revision petitioner's husband, the second respondent herein, and the first respondent/plaintiff; that the impleading application was filed by the first respondent/plaintiff only with the intention of harassing the revision petitioner; and that the trial court,



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without considering these facts, erroneously allowed the application, which warrants interference by this Court.

4. The learned counsel for the revision petitioner would further submit that the property which was sold in favour of the revision petitioner/proposed party is not the subject matter of the property proposed to be attached by filing I.A.No.2 of 2020 and therefore, the order passed by the trial court is liable to be set aside. A copy of the Sale Deed has been filed by the revision petitioner/proposed party before this Court.

5. On the other hand, the learned counsel for the first respondent/plaintiff objects to the contention made by the learned counsel for the revision petitioner and submits that the order passed by the trial court is in accordance with law and therefore warrants no interference.

6. Heard on both sides. Records perused.

7. It is seen that the suit property is different from that of the property sold in favour of the revision petitioner/proposed party by her



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husband, the second respondent/defendant. The trial court, without considering the aforementioned facts, erroneously allowed the application impleading the proposed party, i.e., the revision petitioner herein, as the second defendant in the suit. Therefore, the impugned order passed by the trial court warrants interference by this Court. Accordingly, the impugned order dated 02.09.2022 passed by the Additional District and Sessions Court, Padmanabhapuram, in I.A. No. 3 of 2021 is set aside.

8. Accordingly, this Civil Revision Petition stands allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

26.11.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

JEN

Copy To:

The Additional District and Sessions Judge,
Padmanabhapuram,
Kanyakumari District.



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K.GOVINDARAJAN THILAKAVADI, J.

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