



C.R.P.(MD)No.3206 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.3206 of 2023
and C.M.P.(MD).No.16534 of 2023

Raavaneswaran ... Petitioner/Petitioner/proposed 7th Respondent

Vs.

1.Ramakrishnan ... 1st Respondent/1st Respondent/1st Petitioner

2.Nagarajan

3.Amuthavalli

4.Jeyalakshmi

Nagalakshmi (Died)

5.S.Senthilkumar

6.Minor Nithiga ... Respondents/Respondents 2 to 4, 6 & 7/
Respondents 1 to 3, 5, & 6

(6th respondent represented through her father and next friend 5th respondent)

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.8 of 2023 in I.A.No.5 of 2022 in O.S.No.25 of 2009 on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputhur dated 04.10.2023.



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For Petitioner : Ms.P.Jessi Jeeva Priya

For Respondents : Mr.M.P.Senthil for R2 to R4

ORDER

This revision has been filed against the order passed in I.A.No.8 of 2023 in I.A.No.5 of 2022 in O.S.No.25 of 2009 on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputhur dated 04.10.2023.

2.The facts in brief:

Suit in O.S.No.25 of 2009 was filed by the second respondent and others seeking the relief of partition and separate possession in respect of 4/5th share of the plaintiff. The defendant appeared and filed their written statement and trial commenced. At this stage this revision petitioner filed I.A.No.8 of 2023 in I.A.No.5 of 2022 to implead himself as necessary party. The 7th defendant namely Ramakrishnan remained exparte. He filed a petition to set aside the decree and judgment in I.A.No.5 of 2022. Pending the E.A the above said petition was filed by the petitioner stating that he purchased the 4th schedule from the 7th defendant. He came to know about the pendency of the suit only recently.



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Originally the 4th schedule property was purchased by the 7th defendant from the first defendant on 09.07.2007. Thereafter, only it was sold to him on 14.09.2022. He is in possession of the property. Unless he is impleaded as party, his right will be affected.

3.That was the resisted by the contesting respondent stating that this petitioner is not a necessary party. It was dismissed by the trial Court stating that the 7th defendant is already filed a petition to set aside the exparte decree. The right which are available to the petitioner can be worked out only through the 7th defendant. So he is not a necessary party to adjudicate I.A.No.5 of 2022. Against which, this revision has been preferred.

4.The learned counsel for the revision petitioner would submit that if this petitioner is not impleaded in I.A.No.5 of 2022, then opportunity may be granted to him to file separate impleading petition to implead himself in the main suit itself. No opportunity need be granted by this Court in this regard. The petitioner is always at liberty to workout his remedy through appropriate process, if so advised.



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5. But the fact remains that he claims right to the property namely the 4th schedule only through the 7th defendant. The 7th defendant claims right over the property through the first defendant. What ever rights that are available to them has to be workout on their advice only. Since the suit is filed for partition, no doubt that the purchaser are also necessary parties. So that they can workout their remedy on equity. But parties cannot be going to impleaded wherever the transfers are effected pending suit. Then there will be no end to litigation. Apart from that it is also seen that to resolve the issue of condoning the delay in filing the exparte set aside petition filed by the 7th defendant, this petitioner is absolutely unnecessary party. Without going into other aspects, the order passed by the trial Court does not suffer from any illegality or irregularity as mentioned in the first para of this order. If the petitioner wants to establish his right independently, he can do it at the appropriate time through proper proceedings.

6. With this above said observation this civil revision petition



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stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2024

Index : Yes / No
Internet : Yes / No
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To

- 1.The Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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