



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP(MD) No.477 of 2024
and
CMP(MD)No.2400 of 2024

1.I.Umar

2.P.Bhagawathi

3.G.Anantharaman

4.M.Mariappan

5.S.Murugavel

... Petitioners

Vs.

1.Jamalkhan

2.Jahir Hussain

3.J.Jaheelabanu

...Respondents

(1 to 3 respondents rep.by their
power agent M.Shahul Hameed)

A.L.R.Laxmanan (died)

4.H.Bhuvaneswari

5.Ramani Bose

6.G.Premavathy

7.R.L.Sivasubramani

8.Mylvaganan Lakshmanan

9.L.Sundar

... Respondents



Prayer: This civil revision petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal dated 07.11.2023 passed in I.A No.54 of 2020 in A.S No.148 of 2014 on the file of the Principal Sub Judge, Madurai.

For Petitioners : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.A.N.Ramanathan for R1 to R3

Mr.R.Devaraj for R4 to R9

ORDER

Heard the learned counsel on either side.

2.The revision petitioners herein filed I.A No.54 of 2020 in A.S No. 148 of 2014 on the file of the Principal Sub Court, Madurai to get themselves impleaded as respondents in the appeal. The application was dismissed vide order dated 07.11.2023. Questioning the same, this civil revision petition has been filed.

3.The learned counsel appearing for the revision petitioners reiterated all the contentions set out in the memorandum of grounds of revision. He called upon this Court to set aside the impugned order and grant relief as prayed for.



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4.The learned counsel appearing for the contesting respondents submitted that the impugned order is well reasoned and that it does not call for any interference. He called upon this Court to dismiss this civil revision petition as devoid of merits. Reliance is placed on the following decisions :

- “1. (1996) 5 SCC 539 (Sarvinder Singh v. Dalip Singh)
2. (2004) 2 CTC 183 (Antony Devaraj v. Aralvaimozhi (Kurusadi) Devasayaham Mount Oor and Thuya Vaigula, Annai Churc Rep.by the Trustree
3. Mohd.Farooq v. District Judge, Allahabad, AIR 1993 ALL 8
4. (2012) 8 SCC 384 (Vidur Impex and Traders Pvt Ltd v. Tosh Apartments Pvt Ltd
5. AIR 2005 SC 2209 (Amit Kumar Shaw v. Farida Khatoon
6. (1992) 2 SCC 524 (Ramesh Hirachand Kundanmal v. Municipal Corporation of Greater Bombay”

5.I carefully considered the rival contentions and went through the materials on record. The basic facts are not in dispute. One A.L.R.Laxmanan filed O.S No.642 of 1987 on the file of the Sub Court, Madurai against one Abdul Raseed Khan seeking the relief of declaration and permanent injunction. The plaint was subsequently returned and resubmitted before the court and renumbered as O.S No.



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812 of 1991 on the file of the District Munsif, Madurai Taluk. The suit came to be decreed exparte on 08.07.1994. While so, the defendant Abdul Raseed Khan appears to have sold the suit property in favour of a housing society. The revision petitioners are among the several persons who purchased individual plots in the lay out promoted by the said housing society. Abdul Raseed Khan passed away on 09.12.2002.

6.If the petitioners have purchased in the lay out formed out of the suit property in O.S No.812 of 1991, it was obviously hit by the decree made on 08.07.1994. Probably, realising the same, the legal heirs of Abdul Raseed Khan filed O.S No.22 of 2006 before the District Munsif, Madurai Taluk for getting decree in O.S No.812 of 1991 dated 08.07.1994 as null and void. The suit was dismissed on 23.09.2014. Aggrieved by the same, the legal heirs of Abdul Raseed Khan filed A.S No.148 of 2014 before the Principal Sub Court, Madurai. In the said appeal, the revision petitioners herein filed I.A No.54 of 2020 for getting themselves impleaded. As mentioned above, the petition for impleadment was dismissed.

7.The question that calls for consideration is whether the first appellate court was justified in rejecting the application filed under Order I Rule 10 of CPC. The learned counsel for the revision petitioners submitted that the revision petitioners do have considerable stake in the



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matter and that they are interested parties cannot be in doubt. He further submitted that the petitioners may be allowed to implead as parties to protect their interests. He relied on the unreported decisions of this Court in O.S.A No.178 of 2014 and in CRP(MD)No.1688 of 2011.

8.I am not swayed by the submissions of the learned counsel for the petitioners. As rightly pointed out by the learned counsel appearing for the contesting respondents, it is not as if the revision petitioners became aware of the issue recently. Admittedly, their knowledge dates back to the year 2006. The revision petitioners could have joined as co-plaintiffs. The suit was tried for almost eight years and in the year 2014, it was dismissed. Only in the first appeal, for getting themselves impleaded, the present I.A No.54 of 2020 came to be filed.

9.The Hon'ble Supreme Court in the decision reported in **(2012) 8 SCC 384 (Vidur Impex and Traders Pvt Ltd v. Tosh Apartments Pvt Ltd)** had held that impleadment of a purchaser can be made only if he files the application for being joined as party within reasonable time of his acquiring knowledge about the pending litigation. In this case, fourteen years after getting knowledge about the pending litigation, I.A No.54 of 2020 was filed. The revision petitioners have not purchased their plots during the pendency of the litigation. They had purchased the



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respective plots after their vendors' vendor suffered decree. Looked at from any angle, the impugned order does not warrant any interference.

10.This civil revision petition stands dismissed. Connected miscellaneous petition is closed.

21.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SKM

To

1.The Principal Sub Judge, Madurai.



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G.R.SWAMINATHAN, J.

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