



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.07.2025

CORAM

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THE HONOURABLE MR JUSTICE P.B. BALAJI
CRP.No.748 of 2023
and CMP. No.5745 of 2023

V.Kowsalya
Rep. By her Power Agent
V.Venkatesan

... Petitioner

Vs.

1.V.S.Arumugam
2.V.S.Kulandaivelusamy
3.V.P.Vellingirinathan
4.V.M.Vijayalakshmi
5.The Tahsildar,
Perur Taluk,
Sriuvani Main Road,
Perur, Coimbatore – 641 010.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order passed in I.A. No.2 of 2022 in O.S. No.928 of 2015 dated 11.01.2023 passed by the I Additional District Munsif, Coimbatore.

For Petitioner : Mr.E.K.Kumaresan

For Respondents : Mr.K.Govi Ganesan for R1 & R2

Mr.N.Muthuvel,
Government Advocate for R5



ORDER

The revision petitioner is the contesting second defendant in O.S.

No.928 of 2015. The suit was originally filed by two plaintiffs, who are joint owners of the suit property.

2. It is the admitted case of the parties that the second defendant and the plaintiffs are adjoining property owners and dispute is with regard to southern boundary, in respect of which the suit came to be filed. Pending the suit, an Application have been taken out in I.A. No.2 of 2022 by the second defendant under Order I Rule 10 (2) CPC to remove the first plaintiff from the array of parties in view of the subsequent developments viz., registered partition deed between the plaintiffs 1 and 2, in and by which the suit properties has been allotted to the second plaintiff as early as on 07.04.2016.

3. The said Application came to be dismissed by the Trial Court on the ground that there is a direction from this Court to dispose of the suit within a period of six months and that the defendants having taken out two Interlocutory Applications are protracting the proceedings. The Trial Court has also found that the partition deed between the plaintiffs was only a subsequent event and therefore, it was not necessary for the Court to take



note of the same.

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4. Heard Mr.E.K.Kumaresan, learned counsel for the petitioner and Mr. K.Govi Ganesan, learned counsel for the respondents 1 & 2 and Mr.N.Muthuvel, learned Government Advocate for the fifth respondent.

5. The learned counsel for the petitioner/2nd defendant taking me through the registered partition deed dated 07.04.2016, more specifically, the schedule therein, allotting the suit property to the second plaintiff would contend that after coming to know of the said partition deed between the plaintiffs, the defendants had taken out I.A. No.2 of 2022. In fact the respondents/plaintiffs had filed a memo in the said Interlocutory Application stating that they have no objection for the first plaintiff being removed and struck off from the plaint and the second plaintiff may be permitted to continue with the trial of the suit.

6. However without taking note of the said memo filed by the plaintiffs, which memo was signed by the plaintiffs themselves as well as countersigned by their learned Counsel, the Trial Court has proceeded to



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dismiss the Application only on the ground that the Court will not be bound to take note of the subsequent events under Order I, Rule 10 CPC. The Court, at any stage of the proceedings, is empowered to add or remove parties, depending on the facts and circumstances of the case.

7. Here there is no dispute with regard to the fact that between the plaintiffs 1 and 2, there has been a registered partition deed and on and from 07.04.2016, the first plaintiff has no subsisting right or interest in the suit property. Only in view of the same, the respondents/plaintiffs have also filed a memo stating that they have no objection for the first plaintiff to be removed from the array of the parties in the suit. Unfortunately, the Trial Court, without considering the said memo has proceeded to dismiss the Application filed by the second defendant to remove the first plaintiff from the array of parties on the ground that the partition deed is subsequent to the filing of the suit. The mere fact that this Court directed expeditious disposal of the suit, does not mean that the parties should not exercise their right, available under Order I Rule 10 CPC. In fact, the Trial Court could have simply acted on the memo filed by the respondent/plaintiff expressing no objection for allowing the I.A. No. 2 of 2022, instead of being cause for



further delay in the matter, by passing a detailed order, which is now under challenge before this Court by way of revision petition.

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8. For all the above reasons, the order of the Trial Court I.A. No.2 of 2022 in O.S. No.928 of 2015 dated 11.01.2023 is set aside and the first plaintiff stands removed from the array of the suit and the second plaintiff is at liberty to proceed with the trial of the suit to establish his claims in accordance with law.

9. In fine, this Civil Revision Petition is allowed. Considering that the suit is of the year 2015, the Trial Court is directed to dispose of the suit within a period of four (4) months on merits and in accordance with law. No costs. Connected Miscellaneous Petition is also closed.

09.07.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

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P.B.BALAJI.J.,



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To
The I Additional District Munsif,
Coimbatore.

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