



C.R.P.(PD)(MD) No. 1055 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	18.12.2024
Pronounced on	06.01.2025

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No. 1055 of 2023 and
CMP(MD).No.4967 of 2023

1.Rajeshwari
2.Palaniyammal
3.Saroja

... Petitioners / Appellants

Vs.

1.M.Karunanithi
2.Sundari
3.D.Subramanian
4.Mani
5.Shanthi
6.C.Nagaraju
7.S.Muthukumar
8.Nisha
9.M.Pushparaj
10.M.Paalraj
11.Krishnaveni
12.S.Balasubramani
13.S.Kandasami

.. Respondents / proposed respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order, dated 24.01.2023 made in I.A.No.1 of 2022 in A.S.No.9 of 2021 on the file of the III Additional District Judge,



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Tiruchirappalli.

For Petitioners : Ms. K. Vidya

For Respondent Nos.

1,2,6,12 and 13 : Mr.T. Leninkumar

ORDER

This Civil Revision Petition is preferred against the fair and decretal order order, dated 24.01.2023 made in I.A.No.1 of 2022 in A.S.No.9 of 2021 on the file of the III Additional District Judge, Tiruchirappalli.

2. The revision petitioners are appellants in A.S.No.9 of 2021 and the plaintiffs in the suit in O.S.No.420 of 2018 on the file of Principal Sub Court, Trichy. The revision petitioners filed the above application in I.A.No.1 of 2022 under Order 1 Rule 10 CPC and Section 151 CPC seeking to implead the proposed respondents in the appeal and additional defendants in the suit. In the application filed by the revision petitioners it is contended that the revision petitioners have filed the suit in O.S.No.No.420 of 2018 on the file of the Sub Court, Lalgudi claiming 3/13 share and the same was dismissed on 25.01.2019, on the ground for



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non-joinder of necessary parties. Since the plaintiffs were not aware of the legal heirs of the deceased Selvam and Ilayarani, they were not impleaded in the suit. Pending suit, one Bala Subramani and one Kandasami purchased the suit properties in the year 2020. Hence, the above subsequent purchaser are also necessary parties in the appeal as well as in the suit. Since it is a partition suit all the above persons are necessary parties in the suit to avoid multiplicity of proceedings.

3. The said application was resisted on the side of the respondents / defendants stating that the petitioners have already filed impleading petitions to implead the proposed parties before the Principal Sub Court, Thiruchirappalli where the suit was originally filed and thereafter, the suit and the petitions were transferred to the Sub Court, Lalgudi and the said Interlocutory applications were re-numbered and the said petitions were dismissed for default for non payment of batta. Knowing of the above facts and suppressing the truth, the petitioners have come forward with the above vexatious petition and therefore, prayed for dismissal of the above application.

4. The first appellate Court dismissed the said application in



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I.A.No.1 of 2022 stating that no appeal or revision was preferred against the dismissal of the earlier applications, the present application is not maintainable. Aggrieved by the same, the present revision is preferred.

5. The learned counsel appearing for the revision petitioners would submit that at the time of transferring the suit from Principal Sub Court, Thiruchirappalli to Sub Court, Lalgudi no notice was issued to the petitioners. Only after verification of the case records, the counsel for the petitioners informed about the dismissal of the suit for non-joinder of necessary parties. It is further submitted that the petitioners were not aware of the legal heirs of the deceased. Hence, the revision petitioners were constrained to file the impleading petition before the First Appellate Court for impleading the proposed respondents, namely the legal heirs of the deceased and the subsequent purchasers to have a fair adjudication and avoid multiplicity of proceedings.

6. On the other hand, the learned counsel appearing for the respondents would submit that earlier applications filed by the revision petitioners for impleading the proposed parties were dismissed by the trial Court. Against which no appeal or revision was preferred. Therefore, the



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second application was rightly dismissed by the first Appellate court, which calls for no interference by this Court.

7. Heard on both sides and perused the records.

8. It is not in dispute that earlier applications to implead the proposed respondents were dismissed for non payment of batta. It is also not in dispute that the suit was dismissed by the trial Court for non joinder of necessary parties. Admittedly, the present application for impleading the proposed respondents was filed only before the First Appellate Court. It is settled legal position that necessary parties could be added at any stage of the proceedings. This Court in the Judgment reported in **2009(3) CTC 760** in the case of **Balamani and another vs. Balasundaram** held that the partition suit should not be dismissed simply because of non joinder of necessary parties and opportunity should given to the parties concerned to implead the necessary parties. Having regard to the above Judgment and also having regard to the fact that the legal heirs and subsequent purchasers are necessary parties to the proceedings opportunity should be given to the revision petitioners to implead such parties in the suit. Therefore, the order of the First Appellate Court



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dismissing the impleading petition is liable to be set aside and accordingly, set aside.

9. In the result, this Civil Revision Petition is allowed setting aside the order, dated 24.01.2023 made in I.A.No.1 of 2022 in A.S.No.9 of 2021 on the file of the III Additional District Judge, Tiruchirappalli. No costs. Consequently, the connected Miscellaneous Petition is closed.

06.01.2025

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

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The III Additional District Judge, Tiruchirappalli.



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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-Delivery Order made
in
C.R.P.(MD) No. 1055 of 2023 and
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