



C.R.P(NPD)(MD)No.2229 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(NPD)(MD)No.2229 of 2022

1.N.Latha

2.T.Nakkiran

... Petitioners

Vs

Veerammal (Died)

1.Balamurugan

2.Vijayanandh

3.Nirmala

4.Manjula

5.Jayachithralekha

6.Padhma

7.Sowmya

Krishna Rao (Died)

Rajagopal (Died)

Krishnammal (Died)

Narmadha Bai (Died)

8.Saroja Bai

9.Lakshmanan

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10.Vijayendhran

11.Vijayalakshmi

R.Varadharaja (Died)

12.Thara Bai

13.Rama

14.V.Muniraj

15.V.Ramesh

... Respondents

(Respondents 14 and 15 are represented by their power agent M.Venkatachalapathi as per order passed in I.A.No.6/2021 dated 25.02.2022 and to that effect petition is amended as per order passed in I.A.No.14/2022 dated 23.04.2022)

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decreetal order dated 17.08.2022 made in I.A.No.74 of 2021 in Unnumbered AS on the file of the Principal District Judge, Thanjavur.

For Petitioners : Mr.K.Baalasundharam,
Senior Counsel for
M/s.KBS Law Office

For Respondents : Mr.M.R.Sreenivasan for R4 to R15

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 17.08.2022 made in I.A.No.74 of 2021 in Unnumbered AS on the file of the Principal District Judge, Thanjavur.



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2. The facts in brief is that the suit in O.S.No.116 of 1999 was filed by one Veerammal (now deceased) and others against four persons seeking the relief of partition and separate possession and their 355 share for costs etc. The suit was decreed as prayed for with costs by the judgment and decree dated 30.06.2004, namely the decree partition in respect of 355 shares of the plaintiff without cost. At that time, Veerammal was dead and others prosecuted the matter. In support of the preliminary decree for partition, final decree application was filed. In I.A.No.19 of 2007 on 14.03.2007. The revision petitioner herein purchased some of the portions after the preliminary decree from the son of one Ragavendra Rao. Ragavendra Rao was not a party to the suit. Final decree was passed on 27.10.2017. Wherein, the revision petitioners also parties. Against the preliminary decree, first appeal was filed in A.S.No.60 of 2020. That was dismissed on 10.09.2012. Against which, no Second Appeal was preferred. According to the respondent herein, that preliminary decree for partition has become now final. After passing of the preliminary decree, it is stated that the revision petitioner purchased the property from the defendants 1 to 4. In pursuance of the above said purchase, they filed a petition to implead themselves in the



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final decree application. That application was dismissed against which revision petition was preferred before this Court. The revision was allowed permitting the revision petitioner to take part in the final decree proceedings. The copy of which is available in the typed set of papers.

By making the following observation :

"6.Whether, the property of Ravendra Rao is excluded as per the final decree can be ascertained only when the suit property is inspected by a qualified surveyor. Prima facie the revision petitioner has made out a case that the property as described in the amended preliminary decree includes the property falling under Survey Nos.76/4B and 76/4C, which he has purchsaed from Ragavendra Rao and defendants 1 and 2 as per sale deed dated 27.06.2005. Therefore, the order of the Court below dismissing the implead petition on the ground that no right of revision petitioner is infringed, since his vendor's share is excluded, is a pre-concluded reasoning. Unless, the revision petitioner impleaded as party to the proceedings and allowed to participate in the identification and division of the property, it is pre-mature to conclude his right is not infringed, more particularly when the properties which he has purchased are shown as suit schedule property in the amended final decree. "



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3. By making the above observation, that application came to be allowed. Now they are impleaded in the final decree proceedings. Final decree was passed on 27.10.2017. Against which A.S.No.12 of 2018 was filed by this revision petitioners that was dismissed for default by the order dated 15.10.2022. Now according to the respondent herein, no petition is filed by the revision petitioners so far, to restore the appeal.

4. Now another round of proceedings were taken by the revision petitioners by filing I.A.No.74 of 2021 to set aside the preliminary decree passed on 30.06.2004 with the delay of 4865 days. That application came to be dismissed by the appellate Court against which this Civil Revision Petition is preferred.

5. Heard both sides.

6. This Court completely is not in a position to understand the grievance expressed by the revision petitioner. As stated above, their contention is that they purchased the property which was not originally



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covered in the preliminary decree from one Ragavendra Rao and defendants 1 and 2. But later, after passing of the preliminary decree, an amendment application was taken out, by which the trial Court amended the decree. So their right have been taken away by allowing the amendment application. Only in those situation, an observation has been made by this Court as extracted above. Now they participated in the final decree proceedings and in their presence final decree was passed against which now as mentioned above, they filed an appeal in A.S.No.12 of 2018. They ought to have prosecuted the appeal in a proper manner. But they failed. Now they wants to take another choice by way of taking out the present impugned petition, to participate in the preliminary decree. They were impleaded as parties only in the final decree. After hearing their objections only, the final decree was passed. There is no question of going back to the preliminary decree now and question by way of filing a separate appeal. Because already the appeal filed by the defendants was dismissed after full trial in A.S.No.60 of 2010. There was no Second Appeal. A purchaser cannot go back to the preliminary decree and challenge the same, passed on merits.



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7. So this is the primary point which is available against the revision petitioners. Eventhough this Court has to consider only the point of limitation but the above said defect is apparent on the face of the records. Without prosecuting the appeal, they have chosen to file the present impugned petition which is not at all maintainable. On the sole ground without going into other aspects, the revision filed by the revision petitioner itself is devoid of merits. Moreover, even on merits, also it is seen that several proceedings have been taken by the revision petitioners after purchase made by them. So they had knowledge about the preliminary decree as set out above. Having known all those things, they remained silent. They did not participate in the appeal proceedings initiated by the defendants in A.S.No.60 of 2010. As mentioned above, it has reached the finality now. By misconception of facts and law, it appears that the present petition has been taken by the revision petitioner before the appellate Court. By filing this impugned petition, in effect they want to reopen A.S.No.60 of 2010 which was dismissed on merits, which course is not at all available to the revision petitioners. As mentioned above, they ought to have participated in the appeal proceedings. They failed. Now another attempt cannot be taken by way



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of the present petition.

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8. So I am of the considered view that this revision lacks merits.

9. This Civil Revision Petition is dismissed. No costs.

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NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

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To

1.The Principal District Judge, Thanjavur.

2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

G.ILANGO VAN, J.

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