

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.12.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.1576 of 2015

K.Kuppusamy ..Petitioner/3rd party

/vs/

1.Sivakumar ..1st respondent/plaintiff

2.Maathi

3.Saroja

4.Nirmala

..Respondents/defendants

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 17.06.2014 made in I.A.No.662 of 2013 in O.S.No.166 of 2010 on the file of the Sub Court, Mettur, Salem District.

For Petitioner : Mr.n.Anand

For Respondents: Mr.P.Valliappan for R1

No appearance for R2 to R4

ORDER

Civil Revision Petition is filed against the fair and decreetal order dated 17.06.2014 made in I.A.No.662 of 2013 in O.S.No.166 of 2010 on the file of the Sub Court, Mettur, Salem District.

2.The first respondent/plaintiff has filed a suit for specific performance against the respondents 2 to 4/defendants on the basis of the sale agreement dated 21.01.2009, after issuance of the notice. During the pendency of the suit, the revision petitioner/third party has purchased the property on 04.01.2012 in Doc.No.37 of 2012 and he filed a suit in O.S.No. 36 of 2012 before the District Munsif Court, Mettur for permanent injunction. Now, he has filed an application in I.A.No.662 of 2013 for impleading himself as a party to the proceedings. The trial Court has considered the submissions made by both sides and dismissed the application. Against which, the present revision petition has been preferred.

3.Learned counsel appearing for the revision petitioner/third party would submit that because of his purchase, if he has not impleaded as a party to the proceedings, his valuable right has been affected. Once the owner has sold the property, he may not defend the suit. Hence, he prayed for setting aside the order passed by the trial Court. To substantiate his case, he relied upon the decision of this Court in ***C.R.P(PD) Nos.1337 of 2009, 1056, 1249 and 2062 of 2011, dated 17.06.2014 in (V.L.***

Dhandapani v. Revathy Ramachandran and others) and he prayed for allowing the revision petition.

4. Resisting the same, the learned counsel appearing for the first respondent would submit that after filing of the written statement by the defendants/respondents 2 to 4 herein in the suit, the revision petitioner purchased the property. Hence, he prayed for dismissal of the revision petition.

5. Considered the rival submissions made on both sides and perused the typed set of papers.

6. The first respondent/plaintiff has filed the suit for specific performance against respondents 2 to 4. Admittedly, after filing of the written statement, the owner has sold the property to the revision petitioner. It is true that the sale / alienation is hit by Section 52 of Transfer of Property Act whether the valuable right has been protected or not?. As several matters arose for consideration, it was referred to the Division Bench which, after considering all the aspects of the matter and the judgments of this Court as well as the Hon'ble Apex Court, came to the conclusion

that when the suit for specific performance is filed, the subsequent purchaser is a necessary party to protect his right. Considering the above citations, I am of the view that it is a fit case to implead the petitioner as a party to the proceedings.

7. In such circumstances, to protect the interest of the subsequent purchaser, it is a fit case for allowing this revision. Accordingly, this revision petition is allowed. It is left open to the trial Court to decide the fact as to whether the revision petitioner is a bona fide purchaser for value without notice of litigation or not.

8. In fine, the Civil Revision Petition is allowed after setting aside the impugned order passed by the trial Court. No costs. Consequently, connected Miscellaneous Petition is closed.

08.12.2015

Index: Yes/No
Internet: Yes/No
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To
The Subordinate Court, Mettur.

R.MALA,J.

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