

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.11.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(PD)Nos.3534 & 3535 of 2015 &

M.P.Nos.1 & 1 of 2015

S.Shanthi
M.K.Chandrasekaran

... Petitioner in C.R.P.No.3534/2015
... Petitioner in C.R.P.No.3535/2015

v.

1.I.Saroja
2.M.B.Ramamoorthy

... Respondents in both CRPs

C.R.P.No.3534/2015 filed under Article 227 of the Constitution of India, to set aside the returned order dated 30.03.2015 passed in E.A.SR.No.807 of 2015 in E.P.No.59 of 2010 in O.S.No.667 of 1996 on the file of the District Munsif Court, Tambaram and direct the District Munsif Court, Tambaram to take the said E.A. On the file and adjudicate the issues raised by the petitioner on merits and in accordance with law after affording opportunities to the petitioners to adduce evidence.

C.R.P.No.3535/2015 filed under Article 227 of the Constitution of India, to set aside the returned order dated 13.07.2015 passed in E.A.SR.No.2429 of 2015 in E.P.No.59 of 2010 in O.S.No.667 of 1996 on the file of the District Munsif Court, Tambaram and direct the District Munsif Court, Tambaram to take the said E.A. On the file and adjudicate the issues raised by the petitioner on merits and in accordance with law after affording opportunities to the petitioners to adduce evidence.

For Petitioners : Mr. A.K. Gopalan (both CRPs)

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COMMON ORDER

Challenging the orders passed in unnumbered applications in E.A.SR.No.807 & 2429 of 2015 in E.P.No.59 of 2010 in O.S.No.667 of 1996 on the file of the District Munsif Court, Tambaram, the third parties have filed the above Civil Revision Petitions.

2. The first respondent-plaintiff filed the suit in O.S.No.667 of 1996 for partition.

3. By a judgment and decree dated 28.06.2000, the Trial court passed a preliminary decree in favour of the plaintiff. Pursuant to the preliminary decree passed in O.S.No.667 of 1996, the petitioner filed an application in I.A.No.631 of 2002 for passing of final decree. Thereafter, the plaintiff filed an Execution Petition E.P.No.59 of 2010 in O.S.No.667 of 1996. In the mean time, the revision petitioners filed a suit for permanent injunction in O.S.No.90 of 2005, which was dismissed by the Trial Court and the appeal filed by them in A.S.No.19 of 2012 was also dismissed by the Lower Appellate Court.

4. It is not in dispute that the revision petitioners had the knowledge

of the suit filed by the plaintiff. In fact, the learned counsel appearing for the revision petitioners before the Execution Court admitted that the petitioners had the previous knowledge about the suit filed by the plaintiff.

5. After the dismissal of the appeal in A.S.No.19 of 2012, the revision petitioners filed the applications in E.A.SR.No.807 & 2429 of 2015 under section 47 of the Code of Civil Procedure. According to the revision petitioners, they had purchased the properties from one Vasantha Kumari through a registered sale deed in the year 1990. In spite of the same, the revision petitioners have not filed separate suit for declaration as against the plaintiff. Instead, they filed the suit only for permanent injunction, which was also dismissed by the Trial Court and confirmed by the Lower Appellate Court.

6. Even after the dismissal of the First Appeal in A.S.No.19 of 2012, the revision petitioners kept quiet and the present applications have been filed only after the plaintiff-decree holder filed an application for removal of obstruction.

7. The Execution Court has rightly found that the revision petitioners have no locus standi to file the present applications and rightly rejected both the applications as not maintainable.

8. In these circumstances, I do not find any reason to interfere with the orders passed by the Execution Court. The Civil Revision Petitions are devoid of merits and are liable to be dismissed. Accordingly, the Civil Revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : No
Internet : Yes

05.11.2015

Rj

To

The District Munsif Court,
Tambaram

M. DURAISWAMY,J.,

Rj

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