

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).Nos.4210 and 4211 of 2015
and M.P.Nos.1, 1 of 2015

1.T.Elango

2.S.Sivaraman

.. Petitioners/

Defendants 15 and 16 in both petitions

1.D.D.Sampath

2.K.Damodharan

3.N.Sundara Babu

4.S.Sangeeth

.. Respondents 1 to 4/Plaintiffs

N.Duraikannu (deceased)

5.D.Angamuthu

6.Sakunthala

7.K.Krishnamurthi

8.L.Mallika

9.K.Sankar

A.N.Balasundara Gramani (deceased)

10.A.B.Somu

11.A.B.Panchatcharam

12.A.B.Mari

A.B.Thangaraj (deceased)

13.N.Palani Gramani

14.P.Selvaraj

15.Thangamma Anandianarayanari

16.B.Sankaran

17.S.Manohar

18.B.S.Muralikrishnan

19.K.Ramakrishnan

20.B.Saroja

21.A.B.Sahadevan

22.A.B.Bhavani

23.Rajagopalan

24.Kamakshi

25.A.Selvakumar

26.Mohamed Ansari

27.The Collector of Chennai
Singaravelar Maaligai
Chennai-600 001.

28.Lakshmi

.. Respondents 5 to 28/
Defendants

Prayer:- Civil Revision Petitions are filed under Article 227 of Constitution of India, against the fair and decreetal order dated 24.07.2015 in I.A.Nos.6485 and 6486 of 2015 in O.S.No.11998 of 2010 on the file of the I Additional City Civil Court, Chennai.

For Petitioners : Mr.Siva suyambu

COMMON ORDER

Even though C.R.P.(PD) No.4211 of 2015 is not listed in the cause list today, as the subject matter of the suit and the parties are one and the same, both the matters are taken up together and common order has been passed.

2.The Civil Revision Petitions are filed against the fair and decreetal order dated 24.07.2015 in I.A.Nos.6485 and 6486 of 2015 in O.S.No.11998 of 2010 on the file of the I Additional City Civil Court, Chennai.

3.At the time of admission, argument of the learned counsel for the revision petitioners is heard in length.

4.The respondents 1 to 4 herein as the plaintiffs filed a suit in O.S.No.11998 of 2010 for the following reliefs:

(a) to declare that the plaintiffs are the lawful joint owners of the suit property of 38 cents of vacant land situate in New S.No.52/1 of Koyambedu Village more fully described in the schedule;

(b) to set aside the alienations purported to have been done by the defendants interse document No.2258 of 1990 and documents 1087 to 1090 of 1997 on the file of the Sub-Registrar's office, Anna nagar and any others intended to be done by the defendants;

(c) to direct all the defendants, their men to quit and deliver vacant possession of the suit property to the plaintiffs without any hindrance;

(d) to award cost and any other damages;

The defendants 15 and 16, who are the revision petitioners, have only contested the suit. During pendency of the suit, 14th defendant died and hence, his legal heirs were impleaded as defendants 25 and 26. Consequently, amendment applications have been filed. Further, the respondents 1 to 4/plaintiffs filed applications in

I.A.Nos.6485 and 6486 of 2015 to dispense with notice to the defendants 2 to 6, 8 to 10, 12, 13, 17 to 21, 23, 24, 27 to 30, who are not contesting the suit. The trial Court, after hearing the arguments, allowed the applications.

5.Learned counsel for the revision petitioners submits that when the defendants are on record, they are entitled to notice in any proceedings in the suit. So notice to the defendants, who are contested or not, shall not be dispensed with. Hence, he prayed for setting aside the order passed by the trial Court.

6.Considering the submissions made by the learned counsel for the revision petitioners and on perusal of the typed set of papers, the respondents 1 to 4 filed the suit for the aforesaid reliefs against nearly 21 persons. During pendency of the suit, some of the defendants died and their legal heirs have been impleaded. The 14th defendant passed away and the defendants 25 and 26 have been recognised as his legal heirs vide order dated 17.02.2015 in the memo in O.S.No.11998 of 2010. In order to carry out the amendment, the plaintiffs filed I.A.No.3349 of 2015 along with I.A.Nos.6485 and 6486 of 2015 to dispense with notice

to the defendants, who are not contesting the suit. But notice to the contesting defendants have already been ordered. The trial Court allowed the applications by holding that the defendants 2 to 6, 8 to 10, 12, 13, 17 to 21, 23, 24, 27 to 30 have not contested the suit and hence, to avoid unnecessary delay, notice to the above defendants are dispensed with. In my view, the revision petitioners only to drag on the proceedings have come forward with the civil revision petitions to issue notice to the defendants, who are not taking active part in the trial. Therefore, the order passed by the trial Court does not suffer any illegality or infirmity. Hence, the Civil Revision Petitions deserve to be dismissed and they are hereby dismissed.

7. In the result, the Civil Revision Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

05.11.2015

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To
I Additional City Civil Court, Chennai.

R.MALA,J.

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