

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.4314 of 2015

and

M.P. No.1 of 2015

1.A.Rangappa Vinodh

2.A.Gopalakrishnan

.. Petitioners/

Proposed Defendants 2 and 3

Vs.

1.K.R.Arjunan @ Joghee

2.K.R.Haldorai

3.K.R.Kallan @ Chandran

4.K.R.Ramesh @ Lakshmanan

.. Respondents 1 to 4/Plaintiffs

5.P.Kulasekaran

.. 5th Respondent/Defendant

Prayer:- This Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 16.07.2015 made in I.A.No.257 of 2015 in O.S.No.104 of 2009 on the file of the District Munsif Court, Connoor.

For Petitioners : Mr.P.R.Balasubramanian

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 16.07.2015 made in I.A.No.257 of 2015 in O.S.No.104 of 2009 on the file of the District Munsif Court, Connoor.

2.The respondents 1 to 4 herein as the plaintiffs filed a suit in O.S.No.104 of 2009 for permanent injunction restraining the defendant from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property until partition and separate possession is effected by metes and bounds by due process of law. During the pendency of the suit, the revision petitioners herein have purchased the suit property and hence, they filed an application in I.A.No.257 of 2015 for impleading themselves as defendants 2 and 3 in the suit. The trial Court, after hearing both sides, dismissed the application, against which, the present revision petition is preferred by the revision petitioners.

3.Learned counsel for the revision petitioners submits that in the suit, other co-owners are not impleaded as parties. They purchased the suit property only from the fifth respondent/defendant, who purchased the property from one of the

co-owners. The revision petitioners herein are proper and necessary parties to the suit for proper adjudication and for the disposal of the suit. Hence, he prayed for setting aside the order passed by the trial Court.

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

5.The suit property is originally owned to one Range Gowder of Ketti village. The plaintiffs along with other brothers and K.Range Gowder constituted Joint Hindu family. There was a partition deed on 15.03.1969 and under the partition deed, each of the plaintiffs are entitled to $1/8^{\text{th}}$ undivided share and other brothers namely, K.R.Hala Gowder, K.R.Andu Gowder, K.R.Raju and K.R.Kore Krishnan are each entitled to an undivided $1/8^{\text{th}}$ share (i.e.) 21 cents each. The sons of Hala Gowder sold away an undivided extent of 21 cents to a third party and Andu Gowder and two others had also sold away their $1/8^{\text{th}}$ shares to one Balaji under document No.989 of 2007. However, the said document is impounded for want of payment of proper stamp duty and the said Balaji has not so far taken possession of the said extent. There is no partition taken

place amongst the co-owners namely, the plaintiffs and other co-owners. While so, Andu Gowder had conveyed without title a specific portion in the suit property to the defendant/fifth respondent is not entitled in law. On the basis of the sale deed, the defendant attempted to interfere with the plaintiffs' peaceful possession and enjoyment of the suit property and hence, the plaintiffs constrained to file the suit. The fifth respondent/defendant has filed the written statement and contesting the same.

6. During pendency of the suit, the proposed defendants 2 and 3, who are the revision petitioners purchased the suit property from the defendant/fifth respondent on 11.12.2014 under a registered sale deed and hence, they filed an application in I.A.No.257 of 2015 for impleading themselves as parties to the proceedings. Admittedly, the respondents 1 to 4/plaintiffs are claiming title under the Will executed by K.R.Raju. As the defendant/fifth respondent attempted to interfere with their peaceful possession and enjoyment, the plaintiffs filed the suit for permanent injunction restraining the defendant/fifth respondent from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property

until partition and separate possession is effected by mets and bounds by due process of law.

7. According to the defendant/fifth respondent, he purchased the property from one of the co-owners of the suit property. Whether the defendant/fifth respondent has right over the suit property or not can be decided only at the time of trial after letting oral and documentary evidence. During pendency of the suit, the revision petitioners purchased the suit property and they are the pendente lite purchasers. It is true, the suit is hit by lis under Section 52 of the Transfer of Property Act. Furthermore, the suit is filed for bare injunction. Under such circumstances, the trial Court has considered all the aspects in proper perspective and came to the correct conclusion. I do not find any reasons to interfere with the findings rendered by the trial Court. This civil revision petition deserves to be dismissed and it is hereby dismissed.

8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

03.11.2015

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R.MALA,J.

Kj

To
The District Munsif Court, Connoor.

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