



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2015

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (PD) (MD)No.174 of 2015

and

M.P.(MD)No.1 of 2015

1. R.Kannan

2. R.Dhanabalan ..Petitioners/Petitioners/Proposed Respondents

Vs.

T.Kannan ... Respondent/Respondent/Plaintiff

Prayer: Petition is filed under Article 227 of the Constitution of India to call for the records pertaining to the fair and decreetal order dated 18.09.2014 passed in I.A.No.282 of 2014 in O.S.No.446 of 2010, on the file of the I Additional District Munsif Court, Nagercoil and set aside the same.

For Petitioners : Mr.B.Tamilnidhi

ORDER

The third parties, who wanted to implead themselves in a suit for injunction, are the revision petitioners.

2. Heard the learned Counsel for the petitioners.

3. The suit was filed by the plaintiff for bare injunction, restraining the defendant from encumbering, alienating the property and also disturbing the peaceful possession of the plaintiff. The revision petitioners are the sons of the defendant and therefore claiming right to the property under the settlement deed dated 15.03.2013, which is subsequent to the filing of the suit. The petitioners wanted to implead themselves in the suit based on the said settlement deed executed by the first defendant. According to them, the first defendant, who is the mother, is aged above 80 years and she is not in a position to conduct the case. However, the application was dismissed by the trial Court, on the ground that the suit is for bare injunction and only the factum of possession has been gone into and the presence of the petitioners is not necessary.

4. Unless the Court feels that the proposed parties are necessary parties for deciding the dispute between the parties, they need not be impleaded. Admittedly, the suit is one for injunction. Secondly, the proposed parties are claiming title only based on the settlement deed, which has come into force, only after the filing of the suit. Therefore, even without the presence of the petitioners herein, the dispute between the parties can be adjudicated by the trial Court. Hence, the trial Court has rightly dismissed the application. There is no error of jurisdiction or infirmity for any interference.



5. Accordingly, the Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. No costs.

Sd/-
Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To
The I Additional District Munsif Court,
Nagercoil.

+1cc to Mr.B.Tamilnidhi, Advocate in SR.6338

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