

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.158 of 2014

Abdulla : Petitioner
versus

1.Razia Begum
2.Shafiullah
3.Amanullah
4.Zarina Taj : Respondents

PRAYER: Revision filed against the order dated 18.12.2013, in I.A.No.674 of 2013 in O.S.No.8 of 1996 on the file of the Subordinate Judge, Hosur.

For petitioner :: Mr.V.Lakshmi Narayanan

For respondents :: No appearance

ORDER

The petitioner filed a suit for specific performance. The suit was decreed. The decree was taken up in first appeal before the learned I Additional District Judge, Dharmapuri in A.S.No.12 of 1999. The decree was upheld by the First Appellate Court. However, on second appeal, the decree was set aside and the matter was remitted for fresh consideration.

2. The respondents after remand, filed an application in I.A.No.674 of 2013 to implead the subsequent purchaser as 7th defendant in the said

suit. The application was opposed by the petitioner. The learned Trial Judge allowed the application with an observation that for the purpose of giving quietus to the matter, the proposed party is a necessary party.

3. The learned counsel for the petitioner contended that the proposed party purchased the property knowing fully well about the pendency of proceedings. Since the property was purchased during the currency of litigation, he is not entitled to any kind of audience.

4. None appears for the respondents in spite of printing their names in the cause list.

5. The suit was originally decreed by the Trial Court. The decree was confirmed by the First Appellate Court. This Court allowed the second appeal and remitted the matter for fresh consideration. It was only during the currency of the proceedings referred to above, the proposed party purchased the property in question. The proposed party took a calculated risk by purchasing the property which is the subject matter of a proceeding instituted by the petitioner on the strength of a sale agreement. The proposed party cannot be treated as a bona fide purchaser. In fact, the petition was filed only by the respondents and not by the purchaser. The learned Trial Judge considered the application like any other application under Order 1 Rule 10(2) CPC and allowed it without noting the

background of the litigation and notwithstanding the fact that the property was purchased only during the midst of litigation and that too after remand by this Court. I therefore see considerable force in the submission made by the petitioner.

6. In the result, the order 18 December 2013 is set aside. The application in I.A.No.674 of 2013 is dismissed.

The civil revision petition is allowed. No costs. Consequently, M.P.No.1 of 2013 is closed.

14.11.2016

Index:Yes/no
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To
The Subordinate Judge, Hosur

K.K.SASIDHARAN, J.

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