

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP(PD)No.1945 of 2016
and C.M.P.No.10149 of 2016

S.Vasu

... Petitioner

Versus

Logamma (Deceased)

1. A.Rameshkumar
2. A.Sureshkumar
3. R.Jeevarathinam
4. S.Lalitha
5. Golakh Parida
6. Dimple Choudry

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order of dismissal dated 10.09.2015 made in I.A.No.682 of 2015 in O.S.No.103 of 2011 on the file of the Principal District Munsif, Alandur.

For Petitioner : Mr.K.Harikrishnan

For R3 & R4 : Mr.S.Balasubramanian

ORDER

The petitioner filed a suit for injunction against the respondents 1 to 4 in O.S.No.103 of 2011. During the currency of the Civil Suit, the petitioner filed an application in I.A.No.682 of 2015 to implead the respondents 5 and 6 herein as parties to the suit on the ground that there was a power of attorney in favour of the fifth respondent and a sale agreement in favour of the sixth respondent. The application was dismissed by the trial Court on the ground

that there was no cause of action to file the suit against the proposed parties. Feeling aggrieved, the petitioner is before this Court.

2. The learned counsel for the petitioner contended that during the currency of the civil suit, respondents 3 and 4 executed a power of attorney in favour of the 5th respondent. The fifth respondent sold the property to the sixth respondent. The fifth and sixth respondents are therefore necessary parties. According to the learned counsel, an attempt was made by respondents 5 and 6 to interfere with the peaceful enjoyment of the property by the petitioner and as such, the application was rightly made.

3. The suit in O.S.No.103 of 2011 was laid by the petitioner for injunction. According to the petitioner, during the currency of the suit, power of attorney was executed in favour of the 5th respondent and the property was sold in favour of the sixth respondent.

4. The learned Judge observed that documents were not filed to substantiate the contentions with regard to the execution of power of attorney and the subsequent sale deed.

5. The above stated finding is refuted by the learned counsel for the respondents by placing reliance on the counter affidavit.

6. The affidavit filed in support of the application in I.A.No.682 of 2016 does not contain any statement to the effect that the respondents have interfered with the peaceful possession and enjoyment of property by the petitioner. Such being the factual position, the petitioner was not correct in filing the application to implead the proposed respondents 5 and 6 herein as parties to the suit. The order passed by the learned Judge cannot be categorized as perverse warranting interference by exercising jurisdiction under Article 227 of the Constitution of India.

7. In the upshot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2016

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To

1. The Principal District Munsif,
Alandur.

K.K.SASIDHARAN, J.

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