

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

C.R.P.(PD) No.3121 of 2016
and
C.M.P.No.15845 of 2016

Vasanthi

... Petitioner

vs.

1.Chandragupta
2.Natarajan

... Respondents

Civil Revision Petition filed under Article 227 of the
Constitution of India against the Fair and Decretal Orders dated
18.7.2016 passed in I.A.No.351 of 2015 in O.S.No.75 of 2014 on the
file of the learned Principal District Judge, Villupuram.

For petitioner : Mr.R.Balakrishnan
For 1st respondent: No appearance
For 2nd respondent: given up

ORDER

The petitioner filed a suit for specific performance on the
strength of a registered sale agreement dated 10.9.2013. In the
said suit, the first respondent filed I.A.No.351 of 2015 to implead him
as a party on the ground that he is a creditor and a party to the
petition in I.P.No.3 of 2014 filed by the second respondent herein.
The learned Trial Judge allowed the application notwithstanding the
objection taken up by the petitioner that the first respondent is not a

necessary party to decide the suit filed by her for specific performance. The said order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioner. None appears on behalf of the first respondent inspite of printing his name in the cause list after service.

3. The petitioner filed the suit for specific performance on the strength of a registered Sale Agreement dated 10.9.2013. The first respondent in his affidavit filed in support of the Application in I.A.No.351 of 2015 contended that the second respondent took a loan and the same resulted in filing I.P.No.3 of 2014 by him before the Principal District Court, Villupuram. The Insolvency Petition was dismissed by the Trial Court.

4. The learned Trial Judge allowed the Application in I.A.No.351 of 2015 with an observation that in order to decide the matter effectively and completely, the first respondent should be impleaded as a party. I am not in a position to agree with the views expressed by the learned Judge.

5. The suit filed by the petitioner is for a decree of specific performance. The Insolvency Petition in I.P.No.3 of 2004 filed by the second respondent has already been dismissed by the Trial Court. The suit for specific performance cannot be enlarged into a suit for money. The learned Judge by entertaining the application filed by the first respondent virtually extended the scope of the suit for specific performance. There is no question of impleading the first respondent in the suit filed by the petitioner for specific performance on the strength of a registered sale agreement. In case, the first respondent is having any claim on the second respondent, nothing prevented him from initiating appropriate proceedings. The learned Trial Judge was not correct in allowing the Application.

6. In the result, the Order dated 18.7.2016 in I.A.No.351 of 2015 in O.S.No.75 of 2014 on the file of learned Principal District Judge, Villupuram, is set aside.

7. The Civil Revision Petition is allowed. No costs.
Connected Miscellaneous Petition is closed.

Index : yes / no
Internet :yes / no

30.11.2016

asvm

K.K.SASIDHARAN, J.

Copy to:

The Principal District Judge,
Villupuram.

(asvm)

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