

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD)No.3768 of 2010

and

M.P. No.1 of 2010

Maruthachalam

.. Petitioner

Vs

1.K.Chandrakanthi

2.Karunakaran

.. Respondents

PRAAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decreetal order dated 29.07.2010 made in I.A.No.1431 of 2009 in O.S.No.1713 of 2008, on the file of the Principal District Munsif Court at Coimbatore.

For Petitioner : Mr.P.Mathivanan

For Respondents : Mr.R.Bharathkumar (for R1)

R2 - No Appearance

ORDER

This Civil Revision Petition is filed against the Fair and Decreetal order dated 29.07.2010 made in I.A.No.1431 of 2009 in O.S.No.1713 of 2008, on the file of the Principal District Munsif Court at Coimbatore.

2. According to the learned counsel Mr.P.Mathivanan, appearing for the revision petitioner, the first respondent has filed the suit in O.S.No.1713 of 2008, on the file of the Principal District Munsif Court, Coimbatore, for permanent injunction. The defendant filed a written statement in respect of the suit property in Survey No.157/1D, Vilankurichi Village, Coimbatore Taluk, to an extent of 0.80 acres of land. In the written statement filed by the defendant / second respondent, he has stated that by a subsequent registered sale deed dated 25.01.2008, the suit property was purchased by one Maruthachalam to an extent of 0.06 acres of land and he was in possession and enjoyment of the said land. The revision petitioner/ third party has filed Interlocutory Application in I.A.No.1431 of 2009 before the District Munsif Court, Coimbatore to implead him as a proposed respondent by stating that he was in possession and enjoyment of the property in Survey No.157/1D. Therefore, they are necessary parties in the above said suit. The said application filed under Order 1 Rule 10(2) of C.P.C. was dismissed by the trial Court on the ground that the suit is for bare injunction. Aggrieved by the said order, the civil revision petition has been filed before this Court.

3. According to the learned counsel appearing for the first respondent, the revision petitioner/ impleading petitioner is not a necessary party, the suit

is only for the bare injunction. Therefore, the revision petitioner / proposed party can get appropriate relief, by filing appropriate suit, hence, the trial Court has rightly dismissed the Interlocutory Application. Hence, the civil revision petition itself deserves to be dismissed.

4. Heard Mr.P.Mathivanan, learned counsel appearing for the revision petitioner and Mr.R.Bharathkumar, learned counsel appearing for the first respondent.

5. The first respondent has filed a suit in O.S.No.1713 of 2008 before the Principal District Munsif Court, Coimbatore, for permanent injunction. The revision petitioner / proposed party purchased the property to an extent of 0.06 acres in S.F.No.157/1. Therefore, they are necessary parties in the aforesaid suit. The revision petitioner has produced a copy of the sale deed document. In the said sale deed, it is shown as S.F.No.157/1 in the scheduled property and the same is also served to the learned counsel appearing for the first respondent.

6. The prayer in the suit in O.S.No.1713 of 2008 filed by the respondent herein relates to S.F.No.157/1D to an extent of 0.80 acres. By virtue of the Partition Deed dated 06.11.1995, 80 cents of land in Survey No.157/1 was

allotted in favour of the plaintiff. Subsequently, the survey No.157/1 of the said land was sub-divided as 157/D on 30.11.2006 to the aforesaid extent of land. Thereafter, computerised patta was issued on 25.01.2007. According to the revision petitioner, the property mentioned in the schedule was purchased in the year, 2008. In the sale deed copy, the survey number of the land is mentioned as 157/1. Therefore, it is admitted fact that S.F.No.157/1D has not been mentioned in the sale deed dated 25.01.2008 relied on by the revision petitioner. The revision petitioner has not filed any revenue records along with the application to prove his right. Further, the suit is for bare injunction against the second respondent.

7. In the light of the above observations, I am inclined to pass the following orders:

(i)the impugned order passed by the trial Court in I.A.No.1431 of 2009 in O.S.No.1713 of 2008 on the file of the Principal District Munsif Court, Coimbatore is hereby confirmed and the civil revision petition is dismissed, no order as to cost.

(ii)it is open to the civil revision petitioner to agitate his right in accordance with provision of law as held by the trial Court in I.A.No.1431 of 2009 in O.S.No.1713 of 2008.

(iii)the trial Court is directed to dispose of the suit in O.S.No.1713 of 2008 as expeditiously as possible.

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

vs

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Index : Yes/No

To

The Principal District Munsif Court,
Coimbatore.

D.KRISHNAKUMAR,J.,

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