

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P. (PD) .No.3484 of 2013

and

M.P.No.1 of 2013

Manoharan

... Petitioner

- Vs -

1. R.Vimala
2. Jaisankar
3. Veeramani
4. P.Kalimuthu
5. K.Sathiavathi
6. Neelaavathy
7. Vithya

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Decreetal Order dated 29.11.2012 and made in I.A.130 of 2012 in O.S.No.163 of 2010 on the file of the Principal Subordinate Court, Cuddalore.

For Petitioner : Mr. T.Sezhian
For 1st Respondent : Mr. D.Ravichander
For Respondents 2 & 3 : No Appearance
For Respondents 4 to 7: Given up

O R D E R

The Fair and Decreetal Order dated 29.11.2012 and made in I.A.130 of 2012 in O.S.No.163 of 2010 on the file of the Principal Subordinate Court, Cuddalore are under challenge in this revision.

2. The revision petitioner herein is the plaintiff in the suit in O.S.No.163 of 2010 whereas the 1st respondent herein is the petitioner in I.A.No.130 of 2012 and third party in the suit. The respondents 2 to 7 are the defendants.

3. It appears from the records that the revision petitioner/plaintiff, seems to have filed the above suit as against the respondents 2 to 7 seeking the relief of specific performance of contract of sale and also for the consequential relief of permanent injunction.

4. It is the case of the revision petitioner herein that the respondents 2 and 3 herein who are the real owners of the property have executed a sale agreement in favour of him on 19.07.2004 agreeing to sell the suit property for a sale consideration of Rs.6,65,000/- and received an advance of Rs.6,25,000/- on 19.07.2004. Thereafter, they have also

received the balance sale consideration of Rs.40,000/- and agreed to execute the sale deed within two days. However, they had not come forward to discharge their contractual obligation, which compelled the revision petitioner herein to file the suit.

5. During the pendency of the suit, the 1st respondent herein who is the petitioner in I.A.No.130 of 2012 came forward with a petition under Order I Rule 10 of C.P.C. for her impleadment saying that she is in possession and enjoyment of the property and if the suit is allowed to be decreed, then she would be put in to great loss and hardship. She would further state that the defendants 2 and 3 are not the owners of the suit property and the suit for specific performance of contract has been filed without her consent as against the respondents 2 to 7. In her affidavit filed in support of the petition, she has stated that she had got right over the suit property as it was allotted to her in a partition dated 25.08.2001 and in pursuant to the said partition she had been in possession and enjoyment of the suit property. It is also her contention that the plaintiff and the other defendants in the suit, had colluded together and filed the said suit vexatiously as against her. Since she is a proper and necessary party to

the suit, her presence is required and therefore, she has come forward with the above petition for her impleadment.

6. This petition was resisted by the 3rd respondent, who is the 2nd defendant in the suit. In his counter statement, he has admitted that there was a partition effected between the sharers on 25.08.2001 and that, the 1st respondent/petitioner is one among the sharers in the partition list. But, it is his contention that insofar as the suit is concerned, the 1st respondent/petitioner is an unnecessary party, since the transaction between the plaintiff and the 3rd respondent is only a money transaction she is an unnecessary party to the suit.

7. The contention made by the 3rd respondent was rejected by the trial court and after hearing both sides, the learned Trial Judge has proceeded to allow the application with a finding that in order to decide the lis effectively, and completely, it was felt that the petitioner/proposed party could be impleaded. Challenging the correctness of the order dated 29.11.2012, present revision is filed.

8. This Court has perused the grounds of revision and heard Mr.T.Sezhian, learned counsel for the petitioner and Mr.D.Ravichander, learned counsel for the 1st respondent.

9. Having been taking into consideration of the related facts and circumstances of the case, this Court finds that the impugned order does not require any interference and the revision is liable to be dismissed as devoid of any merits.

10. Accordingly, this Civil Revision Petition is dismissed and the learned Principal Subordinate Judge, Cuddalore, is directed to dispose of the suit in O.S.No.163 of 2010 as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

Index: Yes / No
Internet: Yes / No
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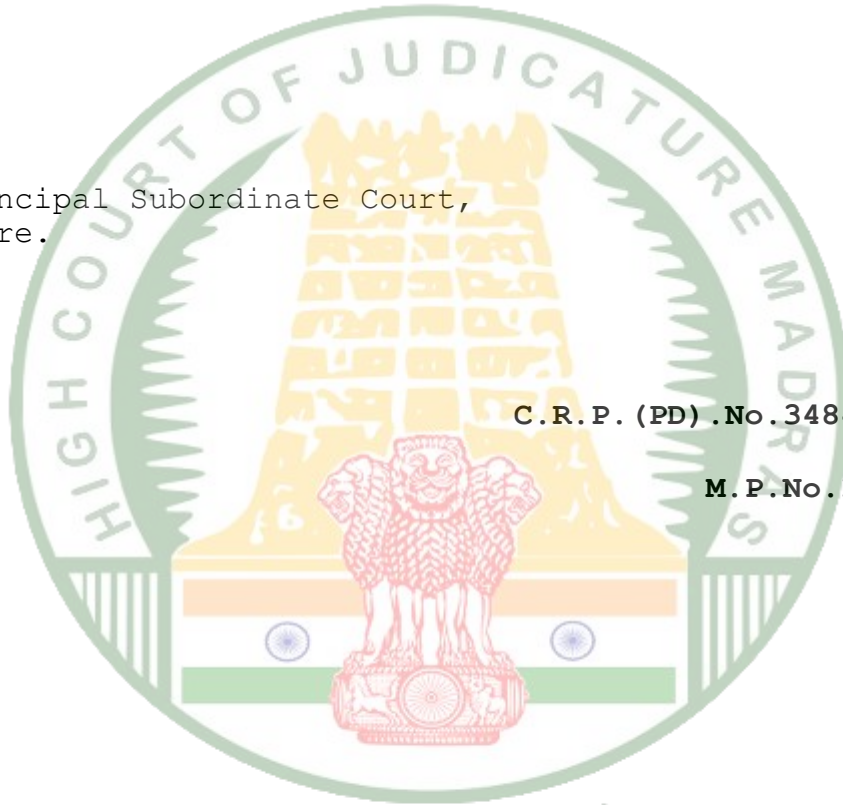
02.12.2016

T.MATHIVANAN, J. ,

ssn

To

The Principal Subordinate Court,
Cuddalore.



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