

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

O.S.A.No.393 of 2009
and
M.P.No.1 of 2009

E.Rama Naidu

... Appellant

vs

- 1.Chinnammal
- 2.Munusamy
- 3.Ravi
- 4.D.Ponnusamy Reddiar
- 5.B.Rajsekaran
- 6.Annammal
- 7.R.Rajaram
- 8.R.Baskaran
- 9.R.Suresh
- 10.M.Sundaram
- 11.Venkatesan

Respondent Nos.1 to 11 are represented by
their General Power of Attorney Agent
S.V.Sundaramurthy

- 12.S.V.Sundaramurthy
- 13.N.Nandha Kumar
- 14.K.Sathya
- 15.M.D.Prasanna
- 16.Karunakaran
- 17.C.Rajan
- 18.R.Venkataramana Rao

.. Respondents

Appeal filed under Order XXXVI, Rule 9 of Original Side Rules read with Clause 15 of Letters Patent against order in A.No.1346 of 2008 in C.S.No.790 of 2005, dated 25.08.2009.

For Appellant .. Mr.R.Manickavel

For Respondent .. No Appearance for R1 to R12

Mr.Francis Cedric D'Cruz
for

Mr.P.B.Ramanujam for RR13,14,15,16 & 18

JUDGMENT

(Judgment of the Court was delivered by
The Hon'ble Chief Justice)

In a suit for specific performance, the appellant as plaintiff has sought to implead the subsequent purchasers as party defendants in the suit. But the endeavour failed, as the application for such an impleadment was rejected vide impugned order dated 25.08.2009. The impugned order in one paragraph only states that it is not necessary to implead the subsequent purchaser as proposed party as the issues could be framed without impleading the subsequent purchaser.

2. The learned counsel for the appellant seeks to rely on the judgment of the Hon'ble Supreme Court in Thomson Press (India) Ltd. v. Nanak Builders & Investors P. Ltd. and others, reported in 2013 (2) CTC 104 to contend that the appellant is entitled to implead the subsequent purchasers, as the transaction between the original defendant and the subsequent purchasers took place after institution of the suit and filing of the written statement by the original defendant. This is so, as there was no interim injunction granted. It is also stated that only part of the property has been sold to the subsequent purchasers.

3. The judgment in Thomson Press (India) Ltd., cited supra arose in the factual context of complete property being sold and that too in breach of the injunction order. It is in those circumstances that the Court directed impleadment of the subsequent purchaser. Thus, the judgment cited supra would have no application to the facts of this case.

4. We also find that no steps have been taken by the appellant to serve respondent Nos.1 to 12 who are the original owners, though they may be formal parties.

5. In our view, the impugned order cannot be faulted, as the issue of specific performance of the agreement of sale in respect of the entire property is a matter between the original plaintiff and the original defendants and the factum of part of

the property having been sold to the subsequent purchasers would not assist in any manner in trying the suit post framing of issues.

6. We thus find no reason to interfere with the impugned order.

7. The appeal is dismissed. No costs. Consequently, M.P.No.1 of 2009 is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To
The Sub Assistant Registrar,
Original Side, High Court, Madras.

1 cc to Mr.R.Manickavel, Advocate, sr.49353
1 cc to Mr.P.B.Ramanujam, Advocate, sr.49256

O.S.A.No.393 of 2009

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