



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **14.11.2016**

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

C.R.P. (MD) No.1688 of 2016

and

C.M.P. (MD) No.8203 of 2016

Samuthiram

... Revision Petitioner/
1st Respondent/Plaintiff

Vs.

1. Kamal

... 1st Respondent/Petitioner 3rd
Party/Proposed 4th Defendant

2. Irudayasamy

3. Larence

Bakiyam (died)

... Respondents 2&3/
Respondents 2 & 3/
Defendants 2 and 3

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the fair order and decreetal order passed by the learned Principal District Munsif cum Judicial Magistrate, Lalgudi, dated 26.02.2016 in I.A.No.592 of 2015 in O.S.No.529 of 2004 by allowing this Civil Revision petition.

For Petitioner : Mr.G.S.Ashok Adhithyan

For Respondents : No appearance.

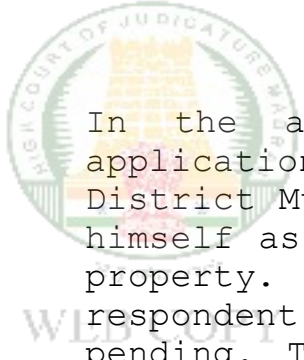
ORDER

Challenging the order passed by the learned Principal District Munsif cum Judicial Magistrate, Lalgudi, in I.A.No.592 of 2015 in O.S.No.529 of 2004, dated 26.02.2016, the present Civil Revision petition has been filed.

2. Heard the learned counsel appearing for the petitioner.

3. Though the notice was served to the respondents, none appeared for the respondents.

4. According to the petitioner, the petitioner has filed a petition in O.S.No.529 of 2004 before the District Munsif Court, Lalgudi, for permanent injunction, against the respondents 2 and 3.



In the aforesaid suit, the first respondent had filed an application in I.A. No.592 of 2015 before the learned Principal District Munsif cum Judicial Magistrate Court, Lalgudi, to implead himself as a party on the basis of the agreement to sell the suit property. It is also stated in the said application, the first respondent filed a suit in O.S.No.613 of 2015 and the same was pending. Therefore, he filed the present application to implead himself as necessary party in the above said suit. The counter affidavit has been filed.

5. The learned counsel for the petitioner has strongly objected that the first respondent has no right over the property. It is only a sale agreement that was entered. Therefore, the first respondent cannot have any right in the present suit. The present suit was filed only for permanent injunction against the respondents 2 and 3.

6. The present application in I.A.No.592 of 2015 was filed by the first respondent/third party to implead himself as a party in the aforesaid suit. In the present application, the first respondent has submitted that he had executed sale agreement with the respondents 2 and 3/defendants 1 and 2. Therefore, he filed a suit in O.S.No.613 of 2015 and the same was pending before the Court below. If the Judgment and Decree has been passed against the defendants 1 and 2, it would affect the first respondent herein in the suit property. Therefore, the present application was filed to implead himself as party.

7. It is an admitted fact that the first respondent herein filed the present application only on the basis of the sale agreement. The title of the first respondent/third party over the suit property is not yet decided as the suit filed by him in O.S.No.613 of 2015 is still pending. However, the present suit was filed for permanent injunction against the respondents 2 and 3/defendants 1 and 2 and therefore, the present application was filed only to implead the first respondent herein in the present suit. Since the respondents 2 and 3/defendants 1 and 2 are already the parties to the suit proceedings, the first respondent herein can be a party to the suit proceedings. No prejudice will be caused to the Revision petitioner, if the first respondent will be impleaded as party in the suit proceedings.

8. Therefore, in the light of the decision of this Court reported in 2015 (4) CTC 293, in the case of Devaki Thiagarajan V. Ahamed, in order to avoid multiplicity of proceedings, the first respondent already filed the suit in O.S.No.613 of 2015 before the learned II Subordinate Judge, Tiruchirappalli, and the respondents 1 and 2 are the parties in the said suit proceedings. Therefore, in order to avoid the multiplicity of proceedings, the present application filed by the



first respondent and the same was allowed by the Court below. Therefore, there is no warrant to interfere with order passed by the Court below in I.A.No.592 of 2015 in O.S.No.529 of 2004, dated 26.02.2016.

9. Hence, the Civil Revision petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

- 1.The Principal District Munsif cum Judicial Magistrate,
Lalgudi.
- 2.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.G.S.ASOK ADHITHYAN Advocate in SR. No.68702

PMU

JS/CM/MSA/20.02.2017/3P-4C

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