



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

C.R.P.PD (MD) No.1848 of 2016

and

CMP(MD) .NO.8885 of 2016

C.Chelladurai

... Petitioner/

Proposed 6th defendant

--- 3rd party

Vs.

Natchammal (died)

Kuppusamy Gounder (Died)

1.Manikandan

2.Jeyalakshmi ...Respondents 1 and 2/Respondent 2 to 4/
Plaintiff

3.Ponnusamy

4.S.Palanisamy

Chinnathal (died)

Kalimuthu (died)

Sakthivel (Died) .. Respondents 3 and 4/Respondents 5 to 7/
Defendant

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.07.2016 passed in I.A.No.316 of 2016 in O.S.No.239 of 1997 on the file of District Munsif Court, Palani.

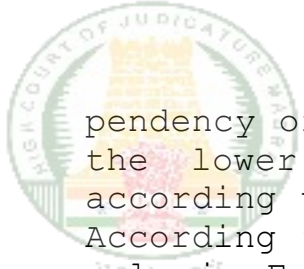
For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.T.Leninkumar for R1 & R2

R4 : No appearance

ORDER

The petitioner is a third party to the suit in O.S.No.239/1997 on the file of District Munsif Court, Palani. The respondents 1 and 2 herein are the plaintiffs in the suit and the respondents 3 and 4 are the defendants in the suit. It is reported to this Court that the third respondent is no more now. The suit has been filed by the respondents 1 and 2 seeking declaration of title and for permanent injunction against the respondents 3 and 4. The said suit is pending from the year 1997 onwards. During the



pendency of the suit, the petitioner filed I.A.No.316/2016 before the lower Court seeking to implead himself as a party, as according to him, he has got absolute title for the suit property. According to him, he purchased the suit property in Court auction sale in E.P.No.336/1988. The said petition was dismissed by the lower Court against the same, he is before this Court with this revision.

2. I have heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2. Despite service of notice, the 4th respondent has not made appearance.

3. A perusal of the records would go to show that there is no dispute that the petitioner is the auction purchaser of the suit property in E.P.NO.336/1998. Whether by virtue of the said sale made by the Court, he has got title or not, whether he is in possession and enjoyment of the suit property are all matters to be gone into by the lower Court. Since the present suit is declaration of title, the petitioner is absolutely a necessary party, because he also makes claim for title, based on a Court auction. The lower Court has, however, dismissed the petition, because the petitioner failed to produce the sale certificate issued in EP No.336/1998. But, now the relevant records have been produced before this Court. Since the petitioner makes claim for title, based on Court auction sale and since the suit itself is for title, in my considered view, the petitioner is absolutely a necessary party to the suit. In such view of the matter, the order of the trial Court needs to be interfered with.

4. In the result, the petition is allowed; the order in I.A.No.316/2016 is set aside and the said I.A. is allowed. The petitioner is added as a third defendant in the suit. The trial Court shall proceed with the suit. No costs. Consequently CMP No.8885/2016 is closed.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To
The District Munsif, Palani

+1cc to Mr.M.P.Senthil Advocate SR.No.69280

RR
sm:sks-rr:20/12/2016:2P/3C

C.R.P. (MD) No.1848 of 2016
14.11.2016