



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.02.2016**

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.424 of 2016(PD)

and

C.M.P. (MD) .No.1834 of 2016

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1.Balusamy
2.Subramanian

.. Petitioners

Vs.

1.Santhiyagu Prabhu
2.Kannammal
3.Balaji
4.Mayandi
5.Ramesh Kannan
6.A.Ayya Thevar
7.Maya Thevar
8.Veluchamy

.. Respondents

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 03.02.2016, made in I.A.No.778 of 2015 in O.S.No.184 of 2012 on the file of the Additional District Munsif Court, Dindigul.

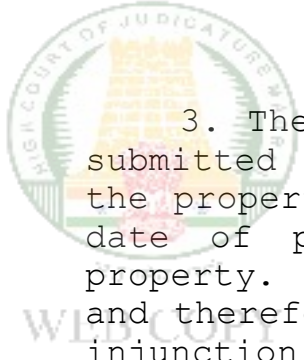
For Petitioners : Mr.M.P.Senthil

For R1/caveator : Mr.K.Muraleedharan

O R D E R

This Civil Revision Petition is filed against the fair and decretal order dated 03.02.2016, made in I.A.No.778 of 2015 in O.S.No.184 of 2012 on the file of the Additional District Munsif Court, Dindigul.

2. The petitioners filed an interlocutory application in I.A.No.778 of 2015 for impleading themselves as defendants 8 and 9 in the Suit in O.S.No.184 of 2012 on the file of the learned Additional District Munsif, Dindigul. The said Suit was filed by the first respondent for permanent injunction restraining the respondents 2 to 8 from interfering with his peaceful possession and enjoyment of the property. According to the petitioners, they are necessary parties in the Suit. The earlier Suit for partition, in O.S.No.400 of 1990 filed by one Meenakshiammal in collusion with respondents 2 to 8, that was not properly conducted and final decree was passed in the year 2006. Therefore, the petitioners filed A.S.No.38 of 2015 against the said final decree and the same is pending. In the circumstances, they are necessary parties as they are co-owners of the property in question.



3. The first respondent/plaintiff filed counter affidavit and submitted that he purchased the property from the person to whom the property allotted in final decree in partition suit. From the date of purchase, he is in possession and enjoyment of the property. The respondents 2 to 8 tried to disturb his possession and therefore he has filed Suit in O.S.No.184 of 2012 praying for injunction restraining the respondents 2 to 8 from the disturbing his possession and enjoyment of the property. In the Suit for permanent injunction, the petitioners are not necessary parties. The learned Judge considered all the facts and materials on record, dismissed the I.A.No.778 of 2015 filed by the petitioners. Against that order, the present Civil Revision Petition is filed.

4. The learned counsel for the petitioners contended that the District Munsif, failed to consider Order 1 Rule 10 of C.P.C. in proper perspective and dismissed the application, accepting the contentions of the first respondent. He further contended that the petitioners are the co-owners of the property, unless they are impleaded as party defendants in the suit, their right in the property will be affected. The learned Judge failed to see first appeal filed against final decree is pending.

5. Heard the learned counsels appearing for the petitioners as well as the respondent/caveator and perused the materials available on record.

6. From the materials, it is seen that the Suit filed by the first respondent is for permanent injunction restraining the respondents 2 to 8 from interfering with his peaceful possession and enjoyment of the property. According to the first respondent, he has purchased from lawful owner and he is in possession and enjoyment of the property from the date of purchase. The respondents 2 to 8 are trying to interfere with his peaceful possession and enjoyment of the property. In the circumstances, the petitioners are not necessary and proper parties. The first respondent is not claiming any declaration of title. The learned Judge considered all these aspects in proper perspective and dismissed the application for impleading the petitioners as party defendants 8 and 9. There is no illegality or irregularity in the said order warranting interference by this Court. Hence, this Civil Revision Petition is liable to be dismissed.

7. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/

Assistant Registrar (P&A)

/True Copy/



To

The Additional District Munsif Court, Dindigul.

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+1cc to Mr.M.P.Senthil, Advocate SR.No.11075

+1cc to M/s.K.Muraleedharan, Advocate in Sr.No.10750

CN/JGB-DP/9.03.2016/3P-4C

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