

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P. (PD) NO.2519 OF 2017

C.D.Varadharajan ... Petitioner

Vs.

1.A.Jeevarathinam
2.V.Srinivasa Chakravarthy ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed in I.A.No.1488 of 2010 in O.S.No.21 of 2010 dated 31.08.2016 by the learned I Additional District Munsif Court, Salem.

For Petitioner : Mr.M.Devaraj
For Respondents : Mr.R.Nalliyappan

सत्यमेव जयते

ORDER

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This Civil Revision Petition is directed against the order dated 31.08.2016 passed in I.A.No.1488 of 2010 in O.S.No.21 of 2010 by the learned I Additional District Munsif, Salem.

2. The petitioner is the defendant in the suit. The first respondent / plaintiff has filed a suit for permanent injunction restraining the defendant from interfering with his peaceful possession. The petitioner, originally owned 3654 sq.ft. of land, out of which, he has sold 3095 $\frac{3}{4}$ sq.ft of land to the first respondent / plaintiff. The remaining extent of 558 $\frac{1}{4}$ sq.ft of land was sold to his son, the second respondent herein, by way of a registered sale deed dated 16.06.2008. But the first respondent / plaintiff would contend that even though a lesser extent of land was sold to the second respondent, by way of a registered sale deed, he was put in possession of the entire extent of 3654 sq.ft. The petitioner/ defendant has not handed over possession of 558 $\frac{1}{4}$ sq.ft to the plaintiff. Therefore, he would contend that the actual owner of the property is his son, namely Srinivasa Chakravarthy, the second respondent herein, and therefore, he should be impleaded as a party in the suit.

3. From this factual background, it can be seen that the first respondent / plaintiff is not seeking title to the property, but seeking bare injunction restraining the petitioner / defendant from disturbing his peaceful possession. It is the admitted case of the first respondent /

plaintiff that he is not the title holder of 558 ¼ sq.ft though the possession was handed over to him by the petitioner / defendant. On the other hand, the petitioner / defendant would submit that he has already sold the remaining extent of land viz., 558 ¼ sq.ft in favour of his son, by registered sale deed dated 16.06.2008. In so far as the title of property is concerned, the concerned person to contest the suit is the son of the petitioner / defendant, namely the second respondent herein. However, the cause of action for the plaintiff to file the suit is against the action taken by the petitioner / defendant in disturbing his possession. Therefore, in a suit for bare injunction, the son of the petitioner/defendant, who is now living in Bengaluru, is not a necessary party. Since the first respondent / plaintiff admits that he has purchased a lesser extent of land measuring 558 ¼ sq.ft, he cannot be a title holder of the remaining extent of the land. In such circumstances, the petition to implead the son of the petitioner / defendant is not maintainable. In any case, the Trial Court is directed to dispose of the suit, within a period of three months, since it is pending from the year 2010 and thereafter, the parties can work out their remedies in accordance with law.

4. The Civil Revision Petition is disposed of accordingly. No costs.

31.07.2017

Index : Yes/No
Internet : Yes/No
TK

To

The I Additional District Munsif
Salem.



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M.GOVINDARAJ, J.

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