

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3094 of 2014
& M.P.No.1 of 2014

1.Velu
2.Dhanaseelan
3.Gopal

.. Petitioners

Vs.

1.Subramani (died)
2.Settu
3.Duraimurugan
4.Dhanammal
5.Saroja
6.Pownammal
7.Samboornam
8.Indrani
9.Yasoda
10.Visalatchi
11.Palani @ Lakshmanan
12.S.Mahalakshmi
13.R.Parthiban
14.R.Dhayalan
15.V.Ramesh
16.L.Radha Ammal

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 27.01.2014 made in I.A.No.447 of 2012 in O.S.No.571 of 2009 on the file of the District Munsif Court, Katpadi, Vellore District.

For Petitioners : Mr.G.Jayachandran

R1 : died

For R2,8,9 : No Appearance

For R3 to 7,10 & 12 : Not ready in notice

For R11,13 to 16 : Mr.V.Ashok
for M/s.Su.Srinivasan

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 27.01.2014 made in I.A.No.447 of 2012 in O.S.No.571 of 2009 on the file of the District Munsif Court, Katpadi, Vellore District.

2. The petitioners are the plaintiffs and respondents are the defendants in O.S.No.571 of 2009 on the file of the District Munsif Court, Katpadi, Vellore District. The petitioners filed the said suit for partition against the respondents/defendants 1 to 12. The 11th respondent filed written statement on 07.07.2010 and is contesting the suit. In the written statement, he has stated that the suit properties were sold by him to the respondents 13 to 16 in the year 1999 and the suit is bad for non joinder of necessary parties. The

petitioners filed present I.A.No.419 of 2010 for impleading the respondents 13 to 16 as defendants 13 to 16. According to the petitioners, the respondents 1 and 2 in collusion with the 11th respondent created a fraudulent transactions in sale agreement. Further, the 11th respondent in turn fabricated document in the name of the respondents 13 to 16. Therefore, they are necessary and proper parties to the suit.

3. The 11th respondent filed counter affidavit and the same was adopted by the respondents 13 to 16. The respondents 13 to 16 submitted that 11th respondent filed O.S.No.374 of 1992 on the file of the Sub Court, Vellore, in respect of the suit property against the father of the petitioners and third respondent herein and five others for the relief of specific performance of agreement of sale. The said suit was decreed, after contest. The 11th respondent filed E.P.No.170 of 1996 on the file of the Sub Court, Vellore, the sale deed was executed in favour of the 11th respondent and 11th respondent took possession of the suit property through Court. Subsequently, 11th respondent sold certain portions of the suit property on 05.03.1999 to the respondents 13, 14 and 15 and on 08.03.1999 to the 16th respondent. The 16th respondent sold the

property by sale deed dated 15.12.1999 to the petitioners and third respondent. The petitioners have already admitted the title of the 11th respondent and now petitioners cannot file the suit for partition. The petitioners having full knowledge of the purchase by the respondents 13 to 16 ought to have filed the suit against the respondents 13 to 16 also and prayed for dismissal of the application.

4. Before the learned Judge, the petitioners did not let in oral and documentary evidence. No oral evidence was let in by the respondents. The respondents marked eight documents as Exs.R1 to R8.

5. The learned Judge, considering all the averments made in the affidavit, counter affidavit and documents filed by the 11th respondent, dismissed the application.

6. Against the said order of dismissal dated 27.01.2014 made in I.A.No.447 of 2012, the present Civil Revision Petition is filed by the petitioners.

7. Heard the learned counsel for the petitioners as well as the respondents 11, 13 to 16 and perused the materials available on record. Though notice was served on the respondents 1 to 10 and 12 and their names are printed in the cause list, there is no representation on behalf of the respondents 1 to 10 and 12 either in persons or through counsel.

8. From the order of the learned Judge and materials available on record, it is seen that the petitioners themselves have purchased the portion of the suit property in the year 1999 from 16th respondent who has purchased the larger extent from 11th respondent. This shows that the petitioners had full knowledge about the title of the 11th respondent, his possession and sale transaction of the 11th respondent with respondents 13 to 16 in the year 1999 itself. The petitioners have not given any reason for not impleading the respondents 13 to 16 at the time of filing of the suit. The learned Judge has rightly considered all the above facts and dismissed the application by giving cogent and valid reason. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 27.01.2014.

V.M.VELUMANI, J.
dm

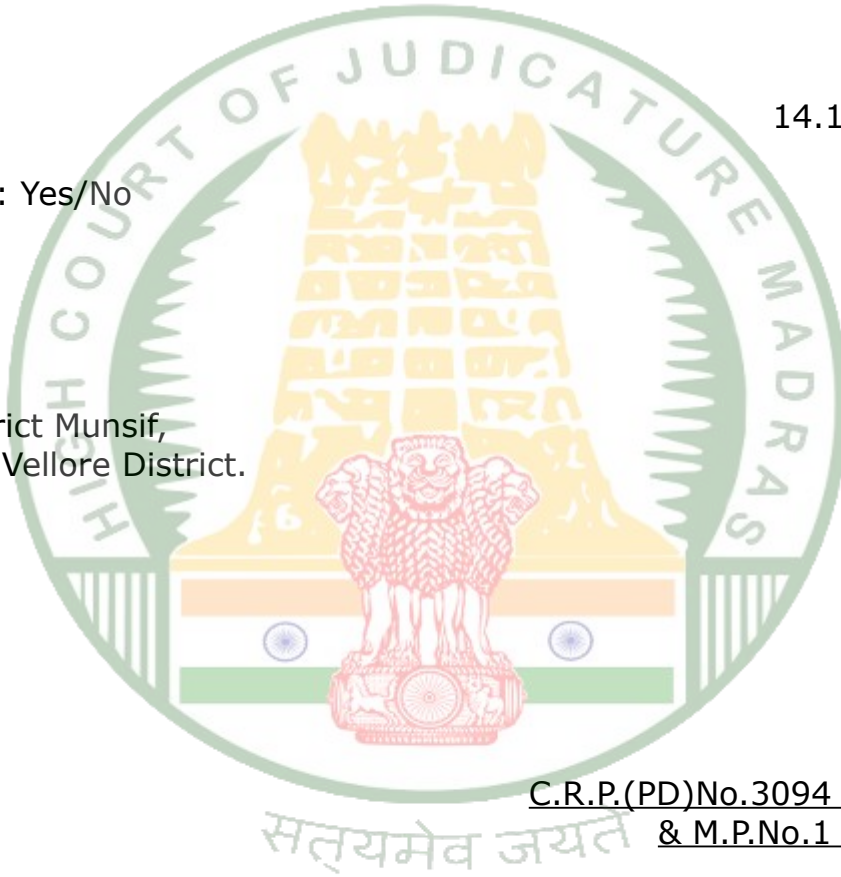
9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.11.2017

Index : Yes/No
dm

To

The District Munsif,
Katpadi, Vellore District.



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