

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3712 of 2014 and
M.P.No.1 of 2014

Pavalavarnan
...Petitioner

Vs

1.K.P.Tamilmani
2.Mumtaj Beevi
3.S.Srinivasan

...Respondents

Prayer:- Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the order passed in I.A.No.690 of 2013 in O.S.No.36 of 2013 on the file of the Additional District Munsif, Poonamallee on 22.04.2014.

For Petitioner	: Mr.A.S.Narasimhan
For R1	: No appearance
R2 and R3	: Given up

सत्यमेव जयते

ORDER

This Civil Revision Petition is directed against the order dated 22 April, 2014 in I.A.No.690 of 2013, whereby and where under, the learned District Munsif, Poonamallee, dismissed the application filed by the petitioner to implead him as a party in O.S.No.36 of 2013.

2. The learned counsel for the petitioner contended that the petitioner is a prior agreement holder and in the event of a decree being passed by the Trial Court in O.S.No.36 of 2013, it would not be possible for him to enforce the agreement. According to the learned counsel, there is already a suit filed by the vendor against the petitioner and as such, the petitioner is a necessary party in the suit in O.S.No.36 of 2013.

3. None appeared on behalf of the respondents.

4. The suit in O.S.No.36 of 2013 was filed by the first respondent against the respondents 2 and 3 for injunction. The first respondent appears to have obtained leave from the Court to file a suit for injunction instead of a suit for specific performance.

5. The petitioner is claiming that he is the prior agreement holder and that he is in possession of the property in question. It is found from the records that the respondents 2 and 3 have already filed a Civil Suit in O.S.No.434 of 2012 against the petitioner herein for injunction. The said suit is stated to be pending. There is no question of impleading the petitioner in a suit filed by the first respondent against the respondents 2 and 3 in view of the connected suit pending in O.S.No.434 of 2012. In case the petitioner is aggrieved by the action taken by the respondents 2 and 3 in executing the agreement with the first respondent, he ought to have filed a suit for specific

performance. However, the factual matrix indicates that no such suit was filed by the petitioner. The only remedy open to the petitioner is to request the learned Trial Judge for simultaneous trial of O.S.No.36 of 2013 and O.S.No.434 of 2012, now pending on the file of Additional District Munsif, Poonamallee. In any case, there is no merit in the contention taken by the petitioner that he is a necessary party in O.S.No.36 of 2013. I am therefore of the view that the order passed by the Trial Court is unassailable. The petitioner is given liberty to move the appropriate Court for simultaneous trial of the suit in O.S.No.36 of 2013 and O.S.No.434 of 2012 on the file of the Additional District Munsif, Poonamallee.

6. The Civil Revision Petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2017

svki

To

The Additional District Munsif, Poonamallee

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K.K.SASIDHARAN,J.

Svki



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