

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.142 of 2009
& M.P.No.1 of 2009

Kuppusamy

... Petitioner

Vs.

1.Subramani
2.Saruvamalai
3.Palanisamy
4.Marappan
5.Marappan

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 24.04.2008 passed in I.A.No.1185 of 2007 in O.S.No.248 of 2000 on the file of the District Munsif Court, Thiruchengode.

For Petitioners : Mr.P.Jagadeesan

For Respondents : Mr.P.Valliappan for R1
No appearance for R2 to R5

ORDER

This Civil Revision Petition has been filed against the order dated 24.04.2008 passed in I.A.No.1185 of 2007 in O.S.No.248 of

2000 on the file of the District Munsif Court, Thiruchengode.

2. The petitioner is the third party, the first respondent is the plaintiff and the respondents 2 to 5 are defendants 1 to 4 in the suit in O.S.No.248 of 2000 on the file of District Munsif Court, Tiruchengode.

2. The first respondent filed suit for declaration and injunction against the respondents 2 to 5. The 4th respondent filed written statement on 09.02.2006. The petitioner filed I.A.No.1185 of 2007 to implead himself as 5th defendant in the suit. According to the petitioner, he is in possession of the ancestral property and he has also purchased 3/6th common share in the suit survey number by way of three sale deeds dated 12.05.2003, 14.02.2005 and 24.11.2005. The first respondent, without having any right or title over the suit property, filed the suit only to give trouble to the petitioner. Therefore, the petitioner filed the Interlocutory Application to implead him as party defendant and therefore he is necessary and proper party to the suit. The first respondent filed counter and denied all the averments made by the petitioner and submitted that the petitioner has not given any details from whom he purchased the property. The alleged purchase is pending suit

and it is hit by *lis pendens* as per Section 52 of Transfer of Property Act. The learned Judge, considering the averments in the affidavit, counter affidavit and materials on record, dismissed the application.

3. Against the order of dismissal dated 24.04.2008 passed in I.A.No.1185 of 2007 in O.S.No.248 of 2000, the present Civil Revision Petition has been filed.

4. Heard the learned counsel for the petitioner as well as 1st respondent and perused the materials on record.

5. The contention of the learned counsel for the petitioner is that the petitioner is the owner of the ancestral property in suit Survey No.245/1 of Pommampatti Village as well as owner of the 3/6th common share in the suit survey number. He, having purchased the same by three sale deeds referred to above, the reasoning of the learned Judge that purchase of the property by three sale deeds is hit by principles of *lis pendens* is not correct. The petitioner is a bonafide purchaser and must be given an opportunity to put forth his case.

6. The contention of the petitioner is untenable in view of the

fact that he has not stated from whom he purchased the property. The petitioner has not stated that he has purchased the property from respondents 2 to 5 and after selling the properties, the respondents 2 to 5 will not properly conduct the case. Even according to the petitioner, his alleged purchase is pending suit, without seeking permission from the court. In view of the above facts, I hold that the petitioner is not a necessary and proper party to the suit. The learned Judge has appreciated all the above facts by giving cogent and valid reason for dismissing the application. There is no illegality or irregularity in the order passed by the learned Judge warranting interference by this Court.

7. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

26.07.2017

Index : Yes/No
rgr

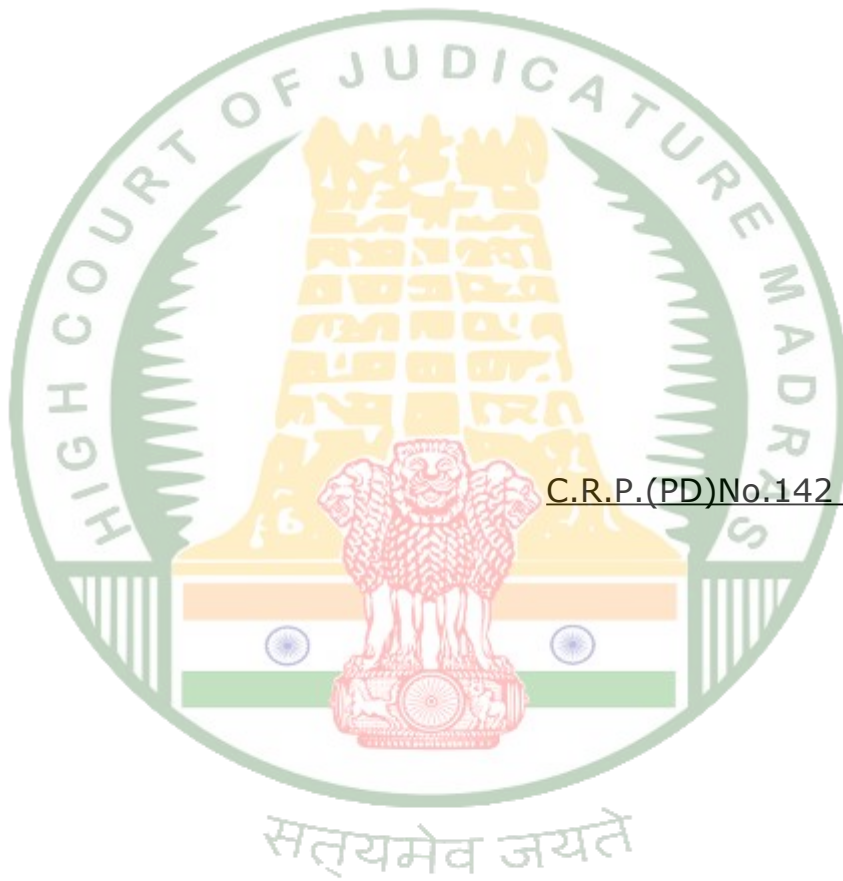
To

The District Munsif Court,
Thiruchengode.

WEB COPY

V.M.VELUMANI, J.

rgr



C.R.P.(PD)No.142 of 2009

WEB COPY

26.07.2017