

M.P.No.2 of 2014 and CMP.No.4338 of 2016
in
CRP (NPD).No.650 of 2014

D.KRISHNAKUMAR,J.

The plaintiffs/respondents 1 and 2 have filed the suit in O.S.No.1496 of 1994 on the file of the II Additional District Munsif, Puducherry, for declaration for title and recovery of possession, against the defendants 1 to 11. In view of the joint memo of compromise filed by the plaintiff and 11 defendant, the suit was decreed partly with regard to "C" schedule property with cost as against D10, and dismissed as against D1 to D9 and D11. Thereafter, the plaintiffs have filed the Execution Petition in E.P.No.93 of 2011. Pending disposal the Execution Petition, the petitioner herein as a third party had filed an application in under Rule 143 of CPC r/w Section 151 of CPC, to record his objection before purported delivery in the said execution petition. The trial Court vide order dated 10.02.2014 has dismissed the said unnumbered E.A.No..../2014 as not maintainable, and terminated the execution petition as delivery effected. Challenging the said, the petitioner/3rd party petitioner in unnumbered E.A...../2014 has filed the present Civil Revision Petition.

2. In the present Civil Revision Petition, the revision petitioner herein and the respondents 1 & 2/plaintiffs have agreed to enter into a compromise, subject to the approval of this Court and a memo of joint compromise was entered between the petitioner and respondents 1 and 2 on 29.01.2016.

3. Now, one Chandran has filed a petition in MP.No.2 of 2014 in CRP.No.650 of 2014 praying to implead him as 14th respondent in the present CRP and other persons named C.Selvaraj and C.Selvam have filed a petition in CMP.No.4338 of 2016, praying to implead them as party respondents (14 & 15) in CRP.No.650 of 2014.

4. Mr.A.S.Narasimhan, the learned counsel appearing for the petitioners in the said miscellaneous petitions has submitted that the petitioners in CMP.No.4338 of 2016 have filed a suit in O.S.No.1087 of 2016 on the file of the II Additional District Munsif Court, Pondicherry against the revision petitioner and the respondents 1 and 2 in the present CRP and summons dated 05.05.2016 were issued to them.

5. Mr.V.Manohar, the learned counsel appearing for first respondent and Ms.P. Srividhya, the learned counsel appearing for the respondents 2 and 3 herein, raised objection to the filing of the said impleading petitions. It is also contended by the respondents 1 to 3 herein that the petitioners in the impleading petitions are not parties before the trial Court or in the execution proceedings and moreover they have not stated the reason for the failure on their part in filing of such impleading petition at the trial stage itself. Hence, these impleading petitions are liable to be dismissed.

6. Considering the submissions made by the parties, it is an admitted fact that the proposed petitioners herein have filed a suit in O.S.No.1087 of 2016 on the file of the II Additional District Munsif Court, Pondicherry. The case of the revision petitioner is that the petitioners in the impleading petitions are not parties in the suit in O.S.No. 1496 of 1994 and in the present Civil Revision Petition. Behind the back, the respondents 2 and 3 have filed a suit and obtained the decree. In view of the admitted fact that the suit in O.S.No.1087 of 2016 is pending before the II Additional District Munsif Court, Pondicherry, with regard to the entire suit scheduled property, at this stage, these impleading petitions filed by the petitioners herein cannot be entertained by this Court. Hence, the petitions in MP.No.2 of 2014 and CMP.No.4338 of 2016 are dismissed. It is open to the petitioners herein to raise all the issues and seek remedy in the suit in O.S.No.1087 of 2016 pending before the II Additional District Munsif Court, Pondicherry.

03.04.2017

(1/2)

ds

D.KRISHNAKUMAR,J.

ds

M.P.No.2 of 2014 and CMP.No.4338 of 2016
in

CRP (NPD).No.650 of 2014

03.04.2017

(1/2)

<http://www.judis.nic.in>