

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.3.2017

CORAM

THE HON'BLE DR.JUSTICE P.DEVADASS

C.R.P.(PD) No.3569 of 2012 &
M.P.No.1 of 2012

Ganesh Balakrishna Mudaliar @
G.B.Mudaliar .. Petitioner/1st Respondent/Plaintiff

Vs.

1 Vijayalakshmi
2 Gowrishankar
3 Jayashree .. Respondents/Petitioners/Proposed
Defendants
4 S.Latha .. Respondents/2nd Respondent/
Defendant

This Civil revision is filed under Article 227 of Constitution of India, against the order, dated 16.07.2012 passed in I.A..No.762 of 2011 in O.S.No.269 of 2010 on the file of the learned Sub Judge, Vellore.

For Petitioner : Mr.R.Devaprasad
For Respondents : Mr.S.J.Masood

ORDER

This is plaintiff's revision.

2 Plaintiff filed O.S.No.269 of 2010 in the Sub Court, Vellore sought for title by succession in the declaratory suit and consequently set aside the sale deed, dated 19.12.2005 executed in favour of the defendant. The plaintiff alleged that the vendor of the defendant was plaintiff's tenant who has no manner of title. When she has no title, she could not convey better title.

3 Defendant and one Mani under separate sale deed purchased the said property from a common vendor. First defendant filed written statement disputing the claim of the plaintiff. In the meanwhile, Mani passed away. His legal heirs were impleaded as parties. They have filed I.A.No.762 of 2011 to implead themselves in the present suit as they have also a say in this matter and they felt that any result in O.S.No.269 of 2010 will have its repercussion as to their title and it will have binding nature impeaching their sale deed. Plaintiff opposed the impleadment.

4 Trial Court taking note of the fact that it does not introduce any new case and it will be a comprehensive suit and it will also prevent multiplicity of proceedings, in other words, the plaintiff will not be driven to file one more suit as against Vijayalakshmi and others.

5 Plaintiff seems to have no patience. Instead of availing of the opportunity, filed a separate suit in O.S.No.11 of 2013 in the Court of Principal District Munsif, Vellore, assailing the sale deed in favour of Mani, now, as against his legal heirs. Now, the said suit has been re-numbered as O.S.No.237 of 2016 in Sub-Court, Vellore. Besides that the present Civil revision by this time passed six years without any progress in the pending suit. This stark reality cannot be denied to either side.

6 There is no point in crying over the spilt milk. The most important issue is when this lis will end. When the true colour of the coin viz., merit of the plaintiff's case or defendant's case will be known. This issue should not be allowed to linger in limbo any more time on technicalities. Technicalities also sometimes becomes

enemies and bar delivering timely justice. The procedural laws are not substantial laws. They are intended to assist us to decide the rights of the parties. But they should not be made as speed breakers on the road to justice and lessen the pace of it.

7 Now, both the suits namely O.S.No.269 of 2010 and O.S.No.237 of 2016 are pending before the very same Sub Court, Vellore. It is also very heartening to note that joint trial has been ordered and it has almost analogous to a comprehensive suit. Any way, plaintiff has to fight as against late Mani's legal heirs also to vindicate his stand with reference to the sale deeds executed in favour of Mani and Latha. Therefore, let Mani's legal heirs also be on record. As I said already, let us not make any deep research into the technicalities. Let the work be done.

8 In the circumstances, while sustaining the impugned order of the trial Court, it is the need of the hour to goad the trial Court to deliver quick justice. I am afraid that the trial Court may not be mistaken for the six years delay.

9 In view of the foregoings, ordered as under:

(1) This civil revision fails.

(2) Plaintiff shall carry out the consequential amendment in the plaint within two weeks from 12.4.2017 on which date the suit is coming up for formal hearing.

(3) Within two weeks thereafter, the impleaded parties will file their written statement and the other defendant Latha will file her additional written statement, if any.

(4) Within six months from the closing of the said date, the trial shall be completed and the suit shall be disposed of.

(5) The trial Court shall submit its completion report to the Registrar (Judicial) of this Court immediately after disposal of the suit.

(5) Accordingly, this Civil revision is disposed of.

(6) Consequently, connected miscellaneous petition is closed. No costs.

22.3.2017

Speaking order
Index : Yes
Internet : Yes
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Note: Issue order copy on 24.3.2017

DR.P.DEVADASS, J.,

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To

1 The Principal District Judge,
Vellore.

2 The Sub Judge,
Vellore.

Copy to

1 The Registrar (Judicial)

2 The Assistant Registrar (Appellate side),
High Court, Madras.

C.R.P.(PD) No.3569 of 2012 &
M.P.No.1 of 2012

Dated: 22.03.2017

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