



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

C.R.P. (PD) (MD) No.1545 of 2017

and

C.M.P. (MD) No.8542 of 2017

C.Chellasamy

...Petitioner

-Vs-

1.G.Parthasarathi

2.G.Ramamoorthy

3.J.Renuka

4.J.Rajaram

5.J.Praveenraja

6.C.Seerkalan

7.R.Roja

8.R.Manikandan

...Respondents

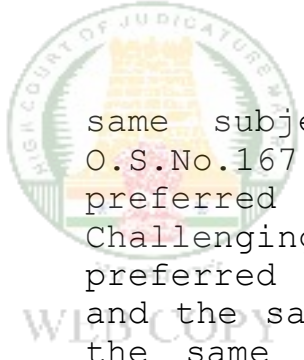
PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the C.R.P. with cost by setting aside the Judgment and Decree in C.M.A.No.1 of 2016 on the file of Sub Court, Virudhunagar confirming the fair and decreetal order passed in I.A.No.494 of 2015 in O.S.No.95 of 2015 on the file of the District Munisif Court, Virudhunagar and grant injunction.

For Petitioner : Mr.P.Velmurugan

ORDER

The respondents 1 to 5 have laid the suit in O.S.No.95 of 2015, for declaration and permanent injunction. It is found that the petitioner, who is the first defendant in the said suit, has filed a written statement and in the written statement, the petitioner has also sought for the relief of permanent injunction by way of counter claim.

2.It is found that the petitioner has preferred the application before the Court below in I.A.No.494 of 2015 claiming the relief of interim injunction till the disposal of the main suit. The petitioner claims the right to the suit properties by way of the Will said to have been executed in his favour by Raju Naicker dated 06.06.1990. It is not in dispute that the suit properties originally belonged to Raju Naicker. It is the case of the petitioner that they had purchased the suit properties from the son of deceased Raju Naicker namely, the fourth defendant by way of sale deed dated 25.10.1996. Now, according to the petitioner, the purchase of the suit properties by the plaintiffs is hit by *lis pendens*. It is further found that in respect of the



same subject matter, the son of Raju Naicker had preferred O.S.No.167 of 1996, the same had been dismissed and an appeal preferred by him in A.S.No.19 of 2005 came to be allowed. Challenging the same, it is found that the petitioner has preferred second appeal in S.A.No.1198 of 2006 before this Court and the same is pending. It is further found that in respect of the same subject matter, the petitioner has laid a suit in O.S.No.267 of 1996, and the same had been dismissed and the appeal preferred by him, has also been dismissed. It is found that the petitioner has preferred second appeal in S.A.No.1134 of 2006 and the same is to be pending. It is thus found in respect of the same subject matter already two second appeals are pending.

3.O.S.No.95 of 2015 has been laid by the plaintiffs for the reliefs of declaration and permanent injunction. The main ground put forth by the petitioner is that the title deed under which the plaintiffs claim title to the suit properties is hit by *lis pendens*. In support of his contentions in I.A.No.494 of 2015, the petitioner has not placed any materials to sustain his case. Per contra, it is found that the respondents / plaintiffs have marked Exs.R 1 to R.10 in support of their case.

4.Considering the rival contentions put forth by the respective parties and the materials placed before the Trial Court, the Trial Court dismissed the application preferred by the petitioner, and the appeal preferred by the petitioner was also dismissed. Challenging the same, the present Civil Revision Petition has been preferred.

5.In the light of the above position, when the title deed under which the petitioner claims title to the suit property, viz., Will is already the subject matter involved in the second appeals as adverted to earlier and when the petitioner has not placed any material to establish his case that he is legally entitled to be possession and enjoyment of the suit properties, it is found that the Courts below have rightly discountenanced the application preferred by the petitioner and in such view of the matter, I do not find any error or mistake in the impugned order of the Court below.

6.Resultantly, this Civil Revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub-Assistant Registrar

To

<https://hcds.cemiltd.com/CaseDetails.aspx?CaseNo=1545> The District Court, Virudhunagar.

+One cc to Mr.P.Velmuguan, Advocate, SR.No.78689

Smi/Myr

RL/3C/2P/GT/SAR3/28/9/2017

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