

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.1104 of 2018

Vasanthamani ... Petitioner

Vs

1. S.Gopinath
2. P.Vijaya Pandian
3. T.Durairaj
4. D.Dhanapal ... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 23.01.2018 made in I.A.No.301 of 2016 in O.S.No.296 of 2008 on the file of II Additional Subordinate Judge, Coimbatore by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Ponraj

ORDER

The respondents have filed the suit in O.S.No.296 of 2008 against one Durairaj and the petitioner. The petitioner has filed an application in I.A.No.301 of 2016 under Order 1 Rule 10 CPC seeking

to implead the purchaser of the suit property viz., D.Dhanapal/proposed party as 3rd defendant in the suit.

2. According to the learned counsel for the petitioner the proposed party is in possession of 1.30 acres of suit property and therefore he is necessary party to the suit proceedings. The Court below erroneously dismissed the said application. Challenging the aforesaid order, the petitioner has filed the present Civil Revision Petition before this Court.

3. This Court on a perusal of the order of the Court below, finds that the suit was filed by the respondents/plaintiffs in the year 2008 for permanent injunction and when the said suit was posted for trial and during the cross-examination of P.W.1, the present application has been filed. Even though trial has been commenced, the same has been adjourned for more than 30 occasions. Hence, the aforesaid application was not entertained by the Court below. Even though the learned counsel for the petitioner would submit that 4th respondent had purchased major portion of the suit property in item I and II in the year 1998, much prior to respondents 1 and 2/plaintiffs, whose alleged sale was only in the year 1999 and therefore, the 4th respondent is a

necessary party to the suit and that the 1st and 2nd respondents, who have filed the suit as plaintiffs, seeking a declaration that the sale deed executed in favour of the petitioner by the 3rd respondent as null and void and also for an injunction against the petitioner and the 3rd respondent, ought to have taken steps to implead the 4th respondent as a party to the suit, the observations made by the trial Court regarding the conduct of the petitioner in taking out an interlocutory application to implead the proposed party/4th respondent herein, belatedly, cannot be lost sight of. It is evident from the order of the trial Court that the petitioner had knowledge about the purchase made by the 4th respondent even at the pre-trial stage and he had even admitted that he was in possession of the relevant documents at the time of filing of the suit. That being so, the conduct of the petitioner in taking out an application to implead, after seeking 30 adjournments or so, in the interregnum, when the case had been posted for arguments, would only go to show that it is an attempt made by the petitioner to procrastinate the proceedings. Therefore, the contention of the learned counsel for the petitioner cannot be accepted and order of the Court below is sustainable. Hence, the Civil Revision Petition is dismissed.

D. KRISHNAKUMAR, J.

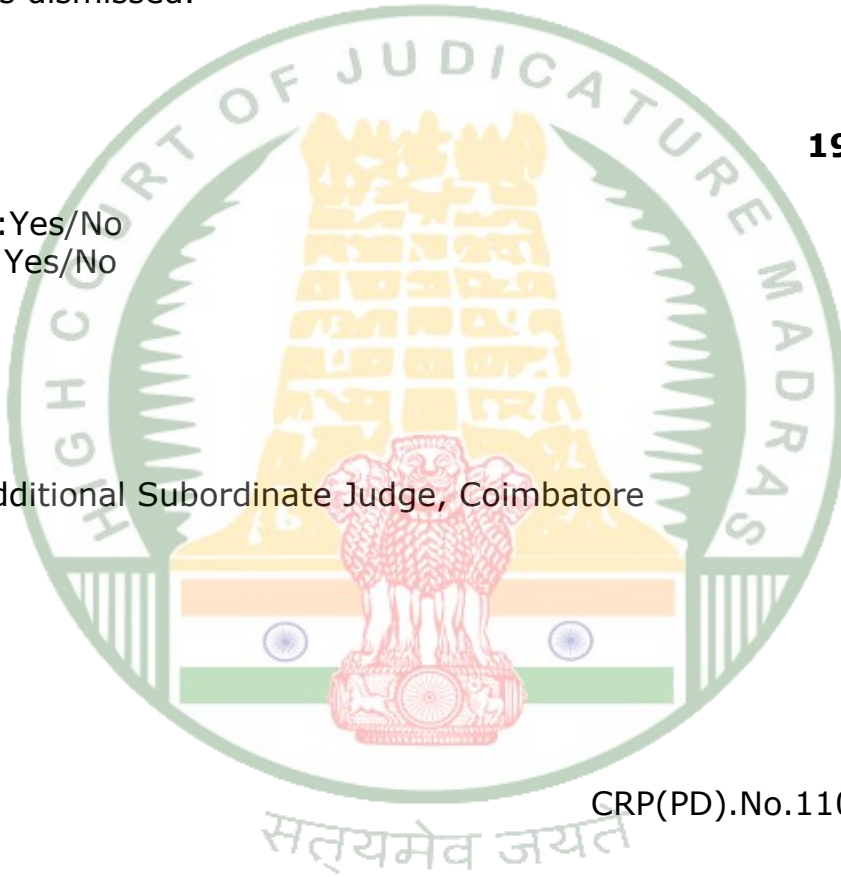
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4. Therefore, the contention of the petitioner cannot be accepted and the order of Court below is sustainable. Hence, the Civil Revision Petition is dismissed.

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To
The II Additional Subordinate Judge, Coimbatore



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