

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.06.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(NPD)No.1574 of 2018

Murugesan
Tambusamy (Died) ... Petitioner

Vs.

Ponnusamy ... Respondent

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decretal order dated 11.08.2017 made in I.A. No.59 of 2017 in O.S. No.86 of 2015 on the file of District Munsif cum Judicial Magistrate, Vedaranyam.

For Petitioner : Mr.P.Dinesh Kumar

सत्यमेव जयते
ORDER

This civil revision petition has been filed against the order dated 11.08.2017 made in I.A. No.59 of 2017 in O.S. No.86 of 2015 by the learned District Munsif cum Judicial Magistrate, Vedaranyam.

2 The suit in O.S.No.86 of 2015 was filed by one Thambusamy. The revision petitioner is third party to the suit and respondent herein is the defendant.

3 Thambusamy filed a suit in O.S.No.86 of 2015 before the learned District Munsif-cum-Judicial Magistrate, Vedharanyam, seeking to declare the settlement deed dated 08.12.2014 executed in favour of the defendant as null and void and for consequential permanent injunction. Pending the suit, the plaintiff sold the suit property to the revision petitioner vide registered sale deed dated 11.03.2016. Subsequently, pending the suit, plaintiff Thambusamy died on 26.09.2016. Hence the suit was dismissed as abated by judgment and decree dated 11.08.2017, since no one has come forward to proceed the case as legal representatives of deceased plaintiff Thambusamy. The revision petitioner, who is the litigant purchaser filed an interlocutory application in I.A.No.59 of 2017 seeking to implead him as second plaintiff in the suit in O.S.No.86 of 2015.

4 The trial Court after hearing the arguments advanced by the learned counsel on either side dismissed the application by an order dated 11.08.2017.

5 Aggrieved against the above said order dated 11.08.2017, the revision petitioner is before this Court with the present civil revision petition.

6 Heard the learned counsel for the petitioner and perused the materials available on record.

7 According to the learned counsel for the petitioner, he purchased the suit property from Thambusamy, who is the plaintiff in the suit vide registered sale deed dated 11.03.2016. Pending the suit the plaintiff died on 26.09.2016, consequently, suit was dismissed as abated by judgment and decree dated 11.08.2017. The revision petitioner filed an interlocutory application to implead him as second plaintiff.

8 The learned counsel appearing on behalf of the revision petitioner has placed his reliance on the judgments reported in **AIR 2005 Supreme Court 2209 and AIR 1994 Rajasthan 31**, in which, it was held that the third party, who is the purchaser of the suit property, pending the suit, can also be impleaded as a party (legal heirs of the deceased) to the suit, to put forth his grievance and effective adjudication of the suit.

9 In the present case on hand, remedy is available to the revision petitioner to put forth his grievance in O.S.No.50 of 2016, in which he is the party, pending before the very same Court, which was said to have been filed by the respondent herein. Hence it is not necessary to implead the revision petitioner in the suit in O.S.No.86 of 2015, which was dismissed as abated.

10 It is an admitted fact that the revision petitioner is third party to the suit. He has not taken any steps to implead him as a party to the suit, during life time of the deceased plaintiff. Under these circumstances, the relief sought for by the revision petitioner to implead him as a party to the suit cannot be granted. The trial has

rightly dismissed the application filed by the revision petitioner. There is no illegality or infirmity in the order dated 11.08.2017 made in I.A.No.59 of 2017 in O.S.No.86 of 2015 and this Court finds no reason to interfere with the same. If at all the revision petitioner has any grievance with regard to the ownership of the suit property he can very well agitate before the trial court in O.S.No.50 of 2016, in which he is the party, which was said to have been filed by the respondent herein to declare the sale deed dated 11.03.2016 executed in favour of the revision petitioner herein as null and void.

11 In the result, the civil revision petition is dismissed. No costs.

05.06.2018

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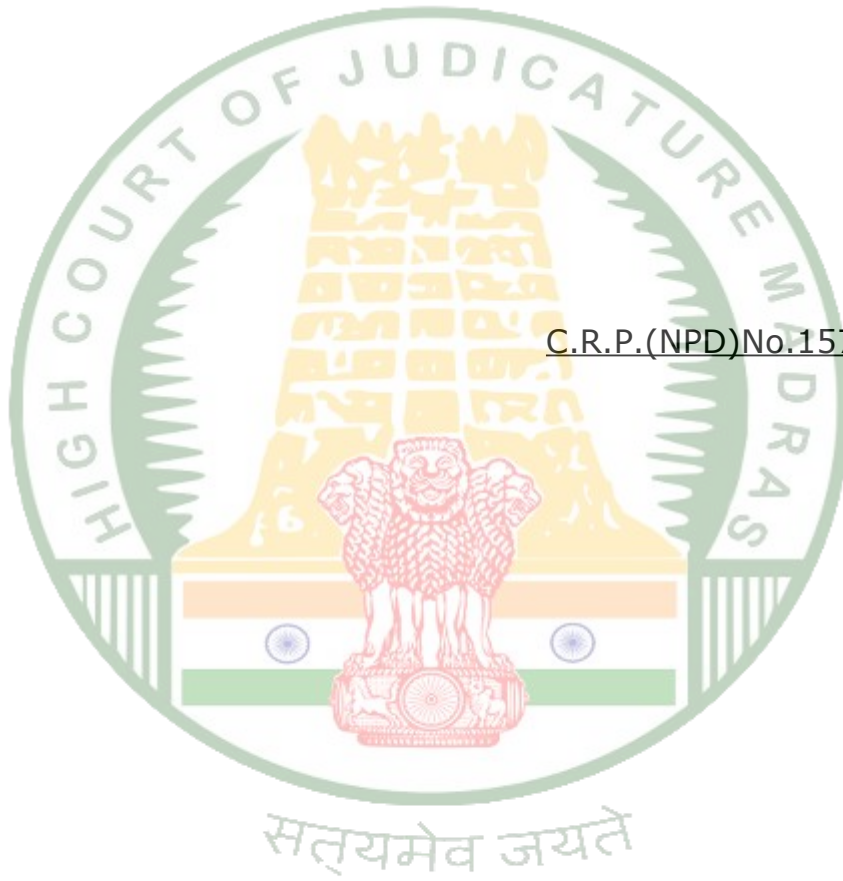
To

The District Munsif cum Judicial Magistrate,
Vedaranyam.

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P.VELMURUGAN, J.,

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