

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.06.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

C.M.A.No.547 of 2018
and
C.M.P.Nos.4836 & 6525 of 2018

S.Antony Michael

...Appellant/Plaintiff

Versus

1.Mr.Reji Chacko
2.Mr.P.C.Kurian
3.Mr.Robin Chacko
4.Mr.Rosh Chacko
5.Mr.Robert Gunasekaran
6.Mr.M.Siddhiq @ Abubakkar
7.The Sub Registrar,
Neelankarai.

...Respondents

(R7 is suo moto impleaded vide
Court Order dated 07.03.2018
made in C.M.A.No.547/2018 and
C.M.P.No.4836/2018)

This Civil Miscellaneous Appeal is filed under Order 43 Rule 7
(a) of C.P.C against the fair and decretal order passed in
I.A.No.784 of 2014 in O.S.No.260 of 2014 dated 20.11.2017 by the
Hon'ble Principal District Judge, Kancheepuram at Chengalpattu.

For Appellant

सत्यमेव जयते : Mr.G.Mohan

For Respondents

1- 4 : Mr.J.Thilagaraj

Respondent - 6

: Mr.K.S.Viswanathan
for
Mr.G.Ilamurugu

Respondent - 7

: Mr.T.M.Pappiah,
Special Government Pleader

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the plaintiff in O.S.No.260 of 2014 on the file of the Principal District Court, Chengalpattu (originally filed as O.S.No.151 of 2011 before the Sub Court, Tambaram) for declaration of title and for suit for a bare injunction.

2. Heard the learned counsel appearing for the appellant and the respondents.

3. The material facts that are necessary for the current purpose may be stated:

Certain Mrs.Mary Thomas owned a piece of 75 cents of property, that on 25.05.2004 she had executed a Power of Attorney in the name of Mr.Robert Gunasekaran, the fifth respondent. On 29.12.2006, the appellant had purchased 19 cents out of 75 cents from the Power of Attorney. The plaintiff claims title and possession under this sale deed on the strength of which he has laid the suit seeking recovery of possession from the sixth respondent for part of the property that he has purchased, and for permanent injunction to protect his possession as to the remaining part. He had moved the Trial Court, in I.A.No.784 of 2014 for an order of interim injunction against not to alienate the property. The Trial Court dismissed the said application primarily on following two conditions: (a) As on the date of sale deed that Robert Gunasekaran had executed in favour of the plaintiff, on 29.12.2006 Mary Thomas, the Principal who had executed the Power of Attorney, was already dead, (b) The Power of Attorney nowhere has granted a power or authority to alienate any portion of the property.

4. The learned counsel for the appellant submitted that on 16.02.2007, the heirs of Mary Thomas who are arrayed in this Appeal as respondents 1 to 4, have executed a ratification deed in favour of the same power holder Robert Gunasekaran who had executed the sale deed. This was resisted by the counsel for the aforesaid respondents 1 to 4 who would allege that it is an unregistered document and hence it cannot convey title.

5. On a prima facie consideration of the entire facts and supported by the material papers which are relevant for the current purpose, this Court does not find any egregious error in the approach of the Trial Court in disposing the I.A.No.784 of 2014. Therefore, this Court does not find any merit in this Appeal.

6. In the result, this Civil Miscellaneous Appeal is hereby dismissed and the fair and decretal order passed in I.A.No.784 of 2014 in O.S.No.260 of 2014 dated 20.11.2017 by the Hon'ble

Principal District Judge, Kancheepuram at Chengalpattu shall stand confirmed. However, this Court directs the Trial Court namely the Principal District Court, Chengalpattu to dispose of the O.S.No.260 of 2014 pending on file within a period of four months from the date of receipt of a copy of this order. The Trial Court is however informed that while deciding the suit, it shall not be influenced by the reasons given in the order in I.A.No.784 of 2014 or anything that this Court might have expressed in this judgment. Parties are directed to appear before the Court on 25.06.2018. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-ix)

//True Copy//

Sub Assistant Registrar

mrr

To

The Principal District Judge,
Kancheepuram,
Chengalpattu.

+1cc to Mr.G.MOHAN, Advocate, S.R.No.35766
+1cc to Mr.G.ILAMURUGU, Advocate, S.R.No.36359
+2cc to Mr.J.THILAGARAJ, Advocate, S.R.No. 35755

C.M.A.No.547 of 2018

VGI (CO)
TR(13/06/2018)

सत्यमेव जयते

WEB COPY