

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.04.2018

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THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRP.No.4258 of 2017

and

CMP No.19954 of 2017



D.Muniyandi ... Petitioner/third party
proposed defendant

.Vs.

1.K.Nagappan ... 1st respondent/plaintiff

2.D.Venkatachalam

3.Sevinthi

4.Minor V.Nitheesh
s/o D.Venkatachalam

5.Minor V.Ashwathi
d/o D.Venkatachalam ... Respondents 2 to 5 /
defendants 1 to 4

सत्यमेव जयते

Prayer : Civil Revision Petition is filed Under Article 227 of the Constitution of India to set aside the fair and decreetal order made in I.A.No.183 of 2016 in O.S.No.54 of 2014 on the file of the Principal Subordinate Court, Salem dated 05.10.2017.

For Petitioner : Mr.K.A.Ravindran
For Respondent 1 : No appearance
For Respondents2-5 : Mr.Durai Gunasekaran

ORDER

This application has been filed to set aside the fair and decreetal order made in I.A.No.183 of 2016 in O.S.No.54 of 2014 on the file of the Principal Subordinate Court, Salem dated 05.10.2017.

2. The first respondent has filed the suit against the respondents 2 to 5 respondents herein in which the revision petitioner filed an application in I.A. No.183 of 2016 in O.S.No.54 of 2014 on the file of Principal Subordinate Court, Salem to implead the petitioner as 5th defendant in the above suit.

3. The learned counsel for the petitioner contends that the revision petitioner has acquired the suit property by virtue of gift deed dated 25.8.2010, from his parents and it was duly registered in the office of the Joint Sub Registrar No.1 Salem West bearing Document No.3696 of 2010. Further he would contend that the petitioner has filed suit for declaration against respondents 2 to 5 on the file of District Munsif Court, Salem by challenging the settlement deed and agreement between the respondents and the same is pending.

4. Opposing the claim of the petitioner, the respondents filed counter stating that as stated by the learned counsel for the petitioner, there is no necessity to implead the petitioner in the above suit. Cause of action for both the suits are different and finally result of one of the suits will not bind other suit.

5. The Trial Court after hearing both the sides dismissed the interlocutory application as there was no valid ground.

6. Since the suit in O.S.No.54 of 2012 is filed for specific performance the same cannot be converted into one for title. The petition has already filed suit in O.S.No.954 of 2014 before the District Munsif, Salem by challenging the settlement deed in favour of the 2nd respondent and agreement between the respondents herein and the said suit is pending even now. However the petition is liable to be dismissed.

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P.VELMURUGAN.,J.

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7. At the time of passing the order the learned counsel for the respondents 2 to 5 prayed for earlier disposal of the suit pending before Principal Subordinate Court, Salem. The learned Principal Subordinate Court, Salem is directed to dispose the suit as expeditiously as possible.

8. With the above observations this Civil Revision petition is disposed of. Consequently the connected miscellaneous petition is closed. No costs.

05.04.2018

Index : Yes/No

Internet: Yes/No

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To,

The Principal Subordinate Court, Salem.

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