

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2018

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD) No. 3055 of 2011

&

M.P. No. 1 of 2011

Chinna Gounder

.. Petitioner

Vs.

1. Kandayammal
2. Kalaiselvi
3. Ayyanarappan
4. Sumathi
5. Kamalakanan
6. Pavayee

...Respondents

Prayer: Civil Revision Petition under Article 227 of the Constitution of India as against the fair and decretal order dated 01.06.2011 in I.A. No. 145 of 2011 in O.S. No. 266 of 2007 on the file of II Additional Sub Judge, Salem.

For Petitioner :: Mr.S. Kalyanaraman

For Respondents:: No appearance for R1 to R6

O R D E R

The above Civil Revision Petition has been filed challenging the order of the learned II Additional Subordinate Judge, Salem, dismissing the impleading application filed by the revision petitioner and the 6th respondent/plaintiffs in I.A. No. 145 of 2011 in O.S. No. 266 of 2007.

2. Heard Mr.S. Kalyanaraman, learned counsel for the revision petitioner.

3. It is seen that the suit O.S. No. 266 of 2007 was filed by the revision petitioner and the 6th respondent on the file of the learned II Additional Subordinate Judge, Salem for partition and separate possession of their shares in the suit properties. The case of the plaintiffs was that the suit properties are ancestral joint family properties of the revision petitioner and his deceased father Seva Gounder. The 2nd plaintiff/6th

respondent herein is the mother of the revision petitioner. The 1st respondent herein is the mother of deceased Seva Gounder and respondents 2 to 5 are the children of Seva Gounder through his second wife Malarvizhi. The plaintiffs therefore sought for partition of their shares.

4. Respondents 1 to 5 herein had resisted the above suit by contending, inter alia, that the plaintiffs are in no way connected with the said Seva Gounder and that the properties are not ancestral properties of the said Seva Gounder. They would contend that major portion of the suit properties belong to one Thailammal, stepmother of Seva Gounder and she is in possession and enjoyment of the suit properties and therefore, the suit is bad for non-joinder of necessary parties.

5. Pending the suit, the plaintiffs came forward with the impleading application in I.A. No. 145 of 2011 seeking to implead the proposed respondent, who is, even according to the plaintiffs, pendente lite purchaser from respondents 1 to 5. This petition was dismissed by the learned II Additional Subordinate Judge, Salem, against which, this revision has been filed by the 1st plaintiff.

6. Learned Subordinate Judge, Salem, has rightly held that the sale is dated 18.06.2010 and the suit was filed on 04.10.2007. Therefore, the sale is clearly hit by the principles of lis pendens and there was no necessity to bring on record, the subsequent purchaser, who was neither a necessary nor a proper party to the proceedings.

7. I find no infirmity in the order passed by the learned II Additional Subordinate Judge, Salem. Hence, the Civil Revision Petition is dismissed. However, there shall be no order as to costs. Connected M.P. is closed.

Sd/-

Deputy Registrar

// True Copy//

Sub Assistant Registrar

nv
To
The Sub Court, Salem.

C.R.P.(PD) No. 3055 of 2011

RMP (27/09/2018)