

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD) No.2579 of 2015
and M.P.No.1 of 2015

1.D.Kalaiselvi
2.Kalaiyarasi

...

Petitioners

Vs.

1.D.Kalaiselvan
2.D.Kennedy

...

Respondents

PRAYER : Civil Revision Petitions filed under Section 227 of the Constitution of India against the fair and final order passed in I.A.No.509 of 2014 in O.S.No.66 of 2011 on the file of the Subordinate Court, Tiruvallur dated 13.01.2015.

For Petitioner : Mr.M.Vijayaraghavan

ORDER

This Civil Revision Petition is filed against fair and final order passed in I.A.No.509 of 2014 in O.S.No.66 of 2011 on the file of the Subordinate Court, Tiruvallur dated 13.01.2015.

2. The petitioners are plaintiffs and the respondents are defendants in the suit in O.S.No.66 of 2011 on the file of the Subordinate Court, Tiruvallur. The petitioners filed the above suit for partition. The first respondent filed written statement on 14.08.2012 and the same was adopted by the respondents 2 & 3. Trial commenced and parties let in evidence and closed their side. When the suit was posted for arguments, the petitioners filed I.A.No.509 of 2014 to re-open the case. According to the petitioners, at the time of preparing for arguments, their counsel informed them that the suit must be re-opened for marking of documents to file petition under Order I Rule 10 (2) CPC to implead the purchaser and for amendment of plaint. The respondents filed counter and contended that the petitioners have not given any reason for not filing the documents earlier and have not furnished the details of the documents sought to be marked. The petitioners were aware of the purchase by the proposed parties even before filing of the suit when they issued notice to the second respondent and the subsequent purchaser and prayed for dismissal of the application.

3. The learned Judge, considering the averments in the affidavit and counter affidavit and the fact that the suit was posted for arguments on 13.10.2014 and petitioners filed the present application only on 17.12.2014 without giving any reason and without giving the particulars of the document sought to be marked and if the purchaser have purchased the property pending suit, the rights and liability of their vendor will be devolved on the purchaser, dismissed the application.

4. Against the said order of dismissal dated 13.01.2015 made in I.A.No.509 of 2014 in O.S.No.66 of 2011, the present Civil Revision Petition is filed by the petitioners.

5. Heard the learned counsel for the petitioners. Though the Civil Revision Petition is numbered in the year 2015, no notice was ordered on the respondents till date.

6. From the materials on record and the impugned order of the learned Judge, it is seen that after conclusion of the evidence let in by the parties and when the suit was posted for arguments, the petitioners have come out with the present application for re-opening the case for marking of documents, for impleading the

subsequent purchaser and for consequential amendment. From the affidavit filed in support of the above application, it is seen that the petitioners have not given any reason for not filing the above documents earlier and have not furnished the details of the documents. Further, the respondents 1 to 3 have contended that the purchasers have purchased the property even before filing of the suit and the petitioners were aware of the same as they have issued notice to the second respondent and to the purchasers before filing of the suit itself. The learned Judge, considering the fact that the petitioners have not given any reason for not filing the documents earlier and without giving the particulars of the document sought to be marked and if the purchase is subsequent to the filing of the suit, then the purchaser will be bound by the rights and liability of their vendor, rightly dismissed the application. There is no illegality or irregularity in the order impugned in this revision warranting interference by this Court.

7. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions **are** closed.

16.02.2018

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Index : Yes/No

V.M.VELUMANI, J.
rgr

To

The Subordinate Judge,
Tiruvallur.



C.R.P.(PD) No.2579 of 2015

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