

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.561 of 2015

A.N.F.Habeebullah

.. Petitioner

Vs.

1.G.V.Kamalammal

2. Dr.G.Varadharajulu @ Sekar

3.Dharmaraya Pillai Thanneer Pandal Trust
represented by C.K.Jayaraman having office
at No.21, Thandavarayan street
East Gopalapuram, Royapettah
Chennai-600 014.

4.C.K.Jayaraman

5.A.L.S.Kannappan (deceased)

6. G.V.Manjula (deceased)

7.G.V.Geetha

8.Jayanthi Kannappan

9.Lavanya

10.Yamini

11.Iswarya

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12.Minor Sathapa Srinivasan
(Represented by mother and
natural guardian Mrs.Jayanthi Kannappan,
the 8th respondent)
13.K.M.Anantha Krishnan
14.Dipta Balaji
15.Rohit Krishna

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 18.11.2014 made in I.A.No.140 of 2012 in O.S.No.13660 of 2010 on the file of the XIX Additional City Civil Court, Chennai.

For Petitioner : Mr.N.Krishnakumar

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 18.11.2014 made in I.A.No.140 of 2012 in O.S.No.13660 of 2010 on the file of the XIX Additional City Civil Court, Chennai.

2. The petitioner is a proposed party, respondents 1 and 2 are the plaintiffs 1 & 2 and the respondents 3 to 15 are the defendants

in O.S.No.13660 of 2010 on the file of the XIX Additional City Civil Court, Chennai. The respondents 1 and 2 filed said suit for declaration of their title along with the respondents 7, 13 to 15 in respect of 'B' to 'E' schedule properties and for permanent injunction restraining the respondents 3 to 5 from interfering with their peaceful possession and enjoyment of the 'B' to 'E' schedule properties. Originally, the respondents 1 and 2 filed suit before this Court, which was numbered as C.S.No.105 of 1995. Subsequently, the same was transferred to V Fast Track Court, City Civil Court, Chennai and renumbered as O.S.No.13660 of 2010. The petitioner filed I.A.No.140 of 2012 under Order I Rule 10(2) read with Section 151 C.P.C. to grant leave to the petitioner for impleading him as a defendant in the suit.

3. According to the petitioner, he has purchased a portion of the property from one R.Victor Raj, power agent of L.Kannappa Chettiar. In view of his purchase, he is necessary and proper party to the suit.

4. The respondents 1 and 2, 3 and 4 and 8 to 12 filed separate counter affidavits and opposed the said application.

According to the respondents 1 and 2, the petitioner has not furnished particulars of his purchase. The suit is of the year 1995 and the petitioner has alleged to have purchased the property in the year 2010 pending suit. The respondents 3 and 4 in the counter affidavit stated that the petitioner had obtained a sale deed dated 04.08.2010 bearing Document No.3378 of 2010 on the file of the Sub-Registrar's Office, Anna nagar from R.Victor Raj, power agent of L.Kannappa Chettiar and they were arrested in Crime No.1624 of 2011, which was registered for the offences under Sections 465, 468, 471 and 420 IPC. The petitioner was absconding. The respondents 3, 4 and 8 to 12 have also stated in their counter affidavit that the said Victor Raj filed I.A.No.302 of 2011 for impleading him as a party in the suit and the same was dismissed for default. Subsequently, he filed application for restoration and the same was dismissed as withdrawn. Again, he filed I.A.No.44 of 2012 for impleading him as a party in the suit and the same was also dismissed.

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5. The learned Judge considering the averments made in the affidavit, counter affidavit and the fact that Victor Raj, power agent of L.Kannappa Chettiar filed applications for impleading him as a

party to the suit before the Court and they were dismissed, and wife of the petitioner Smt.Zarina has also filed application for impleading herself as a party to the suit and the same was also dismissed, the petitioner knowing fully well about the proceedings had purchased the property, held that the petitioner is not a necessary and proper party to the suit and dismissed the application.

6. Against the said order of dismissal dated 18.11.2014 made in I.A.No.140 of 2012 in O.S.No.13660 of 2010, the present Civil Revision Petition is filed by the petitioner.

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

8. From the impugned order of the learned Judge, it is seen that the respondents 1 and 2 filed suit in the year 1995 before this Court as C.S.No.105 of 1995. The petitioner has purchased the property on 04.08.2010 through power agent of L.Kannappa Chettiar namely, Victor Raj, pending suit. From the materials available on record, it is seen that a criminal case was registered against the said L.Kannappa Chettiar, his power agent Victor Raj and

the petitioner. Victor Raj and L.Kannappa Chettiar were arrested, while the petitioner was absconding. Further, the two applications filed by Victor Raj for impleading him as a party to the suit were dismissed and the application filed by the wife of the petitioner for impleading herself as a party was also dismissed. The petitioner alleged to have purchased the property pending suit after 15 years of filing of the suit. In view of the same and dismissal of the applications filed by Victor Raj, vendor of the petitioner and petitioner's wife, petitioner is not a necessary and proper party to the suit.

9. For the above reason, the Civil Revision Petition is dismissed as devoid of merits. No costs.

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V.M.VELUMANI, J.

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To

XIX Additional Judge, City Civil Court, Chennai.



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