

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (NPD) No.3196 of 2018

and

C.M.P.No.18283 of 2018

R.Meganathan

.... Petitioner

vs.

R.Saraswathi

.... Respondent

Civil Revision Petition filed u/s.25 of Tamil Nadu Buildings (Lease and Rent Control) Act against the judgment and decree dated 04.09.2018 made in unnumbered EA of 2018 in EP 217 of 2000 in OS 202 of 1982 on the file of the Principal District Munsiff, Cuddalore.

For Petitioner : Mr.L.P.Maurya

For Respondent : No Appearance

ORDER

This revision is preferred against the judgment and decree dated 04.09.2018 made in unnumbered EA of 2018 in EP 217 of 2000 in OS 202 of 1982 on the file of the Principal District Munsif, Cuddalore.

2. The suit in O.S.No.202 of 1982 on the file of Principal District Munsif, Cuddalore, has been preferred seeking declaration of title and recovery of possession. Such suit has been decreed and pursuant to the same being put into execution the petitioner has moved unnumbered E.A.No.. of 2018 under Or. 21 Rule 97,98,99,100 and 101 of C.P.C seeking to implead the petitioner contending that the decree is not binding on the petitioner and enquiry has to be conducted regarding rights of petitioner. Upon dismissal of such unnumbered E.A.No. Of 2018, the petitioner has preferred the present Civil Revision petition.

3. We have heard the learned counsel for petitioner.

4. It is the contention of the learned counsel that the suit in O.S.No.202 was preferred in the year 1982, while even there before one Lakshmanan had purchased property in the year 1981. Such Lakshmanan had not been made a party to the suit. The petitioner has come into possession of the property through a purchaser under the said Lakshmanan. Learned counsel contends that as such the decision of Court below informing that the petitioner cannot have any independent right in the suit property and he has to abide by the result received by Abimannan and therefore the decree binds the petitioner also and hence the petition need not be numbered and elaborate enquiry be conducted as the petition itself is not maintainable in law is erroneous. Learned counsel contends that Court below erroneously has found petitioner to be *pendite lite* purchasers.

According to learned counsel the suit in O.S.No.202 of 1982 offends Order 1 Rule 10 CPC in as much as necessary parties have not been made party thereto.

5. We have considered the above submissions in the light of the claim of the respondents/deed holders.

6. The very claim of the plaintiff has been that she had purchased the properties which was in the hand of lessees. As the lessees had failed to fulfil their obligations and also caused deterioration in the value of the property. Plaintiff had caused a legal notice calling upon the lessees to handover possession. Such lessees had denied the title of plaintiff and asserted individual title and hence the plaintiff had moved the suit seeking declaration of title and recovery of possession.

7. Given the nature of the action, this Court is of the view that the plaintiff is entitled to ignore all deeds of the lessee under her including deeds of sale executed by them. If the claim of the plaintiff of being a owner and lessor of the property holds good then necessarily he who denies being a lessee and all those who claim under him would suffer ejectment.

C.T.SELVAM, J.

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Given the above position, this Court finds no reason to interfere with the order under challenge and accordingly, this Civil Revision Petition is dismissed. Connected miscellaneous petition is closed.

24.10.2018

Index:yes
Internet:yes

To

The Principal District Munsiff,
Cuddalore



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