



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 08.10.2018
DELIVERED ON : 02.11.2018

WEB COPY

CORAM
THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (NPD) (MD) No. 2354 of 2015
and
M.P. (MD) No. 1 of 2015

1. Chinnapappa
2. Chinnammal
3. Palaniammal
4. Pavun Ammal

.. Petitioners

Vs.

1. Nakan @ Mayandi
2. P.S. @ Perasamy
3. Aandi
4. Selvaraj
5. Ayyachamy
6. Periasamy
7. N. Pandi
8. Ponnuthai
9. Bommakkal

.. Respondents

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.417 of 2015 in O.S.No.17 of 2014 on the file of the District Munsif, Nilakkottai. dated 08.09.2015

For Petitioners

: Mr.M.R.Murugesan

For Respondents

: Mr.H.Thayumanaswamy for RR1 to 6 &
RR8 & 9

R7

: No Appearance

ORDER

Heard Mr.M.R.Murugesan, learned counsel appearing for the petitioners and Mr.H.Thayumanaswamy, learned counsel appearing for the respondents.

2.This petition has been filed against the order passed in I.A.No.417 of 2015 in O.S.No.17 of 2014 on the file of the District Munsif, Nilakkottai.

3.The petitioners herein are the plaintiffs and the respondents herein are the defendants in the suit. The petitioners filed a suit in O.S.No.17 of 2014 before the learned District Munsif, Nilakottai for declaration of title of the plaintiffs over items 1 to 4 and for permanent injunction against the defendants. The petitioners filed a petition in I.A.No.417 of 2015 before the learned District Munsif, Nilakottai for amendment in the plaint. The



petition was dismissed by the trial Court. Against the order of dismissal, the petitioners have come forwards with the revision petition.

4. On the side of the petitioner, it is stated that the petitioners 1 to 3 sold the property to the fourth petitioner. The suit is to be amended incorporating the above said facts and the trial Court has dismissed the petition only on the ground that the sale is lis pendens. As the transaction was between the petitioners themselves, the cause of action is not reported. The nature of the suit will not be affected.

5. On the side of the respondents, it is stated that the suit is for declaration and injunction. The plaintiffs have not filed any document of title in the suit. The suit is pending from the year 2008. The plaintiffs are claiming title only through the patta and transaction is only during the pendency of the suit. When the patta was challenged by the respondents, the petitioners tried to create title deed in favour of them and subsequent sale cannot be entertained as the document was created only for the purpose of this case.

6. A perusal of the records reveals that the sale stated in the petition is only during the pendency of the suit. The validity of the sale deed will be on the basis of the Judgment in the suit.

7. In the above circumstances, there is no necessity to make amendment in the plaint. If the petitioners are able to declare their title, the same will be applicable for the fourth petitioner also. Allowing this petition may affect the course of the case. There is no merits in this petition. Hence, this Civil Revision Petition is dismissed. No Costs. Consequently, M.P.(MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

Mrn

To

The District Munsif, Nilakkottai.

+1cc to Mr.Babu Rajendran, Advocate in SR No.94272

+1cc to Mr.H.Thayumana Swamy, Advocate in SR No.94147