



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 07.03.2018

DELIVERED ON : 28.04.2018

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
C.R.P. (PD) (MD) No.769 of 2017

Selvi : Petitioner / Petitioner / Plaintiff

Vs.

1.Peratchi
2.Joint Registrar,
District Registrar Office,
Tirunelveli District.

3.R.Ravisankar
4.Meera
5.R.Arumuga Perumal
6.Padma
7.Arunthavas
8.Subramanian : Respondents / Respondents / Defendants

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal Order, dated 23.11.2012, passed in I.A.No.441 of 2016 in O.S.No.64 of 2014, on the file of the Additional Subordinate Court, Tirunelveli.

For petitioner	: Mr.K.Gokul
For Respondents 1 & 8	: Mr.D.Nallathambi
For 2 nd respondent	: Mr.P.Thiyagarajan
For respondents 3, 5 & 7	: Mr.H.Arumugam
For 6 th respondent	: No appearance

ORDER

This civil revision petition has been filed as against the order rejecting the relief of amendment of plaint sought for by the revision petitioner / plaintiff.

2. The revision petitioner / plaintiff has filed the suit seeking to cancel the sale deed, dated 19.01.2005, executed by him in respect of the suit property in favour of the 1st respondent / 1st defendant on the ground that (a) the 1st respondent / 1st defendant has been filing civil and criminal cases against the revision petitioner / plaintiff alleging encumbrances over the suit property, which has been sold by him by way of sale deed, dated 19.01.2005; (b) he could not clear the encumbrances over the



property as per the assurance deed; (c) he is ready to repay the sale consideration of Rs.1,70,000/-. It is stated in the written statement filed by the 1st respondent / 1st defendant, the revision petitioner / plaintiff has executed the sale deed, dated 19.01.2005, for the sale consideration of Rs.7,70,000/- without any valid title and in respect of the very same property, one Padma claimed title over the property, for which he has filed the suit in O.S.No.110 of 2007 and the same was, subsequently, closed based on the settlement entered between the 1st respondent / defendant and the said Padma, and subsequently, they sold the suit property to some third parties. In view of the said averments, the revision petitioner / plaintiff has subsequently impleaded the said Padma and subsequent purchasers as defendants 3 to 8. Thereafter, the revision petitioner / plaintiff has filed amendment petition in I.A.No.441 of 2016 seeking to add the relief of declaration declaring the subsequent sale deed, dated 11.07.2011, as null and void and to add / substitute the averments mentioned in the petition according to that relief. The Court below has dismissed the said application holding that the proposed amendment will change the nature of the suit. Aggrieved by that order, the revision petitioner / plaintiff has filed the present civil revision petition.

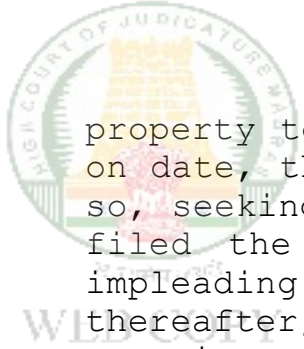
3. The learned counsel for the revision petitioner / plaintiff would submit that the 1st respondent / 1st defendant colluding with the 6th respondent / 6th defendant has purposefully sold the suit property to the third parties and in order to declare the said sale deed as null and void and to add the averments to that effect in the plaint, the revision petitioner / plaintiff has filed the said amendment petition before the Court below and no prejudice would be caused to the respondents / defendants by allowing the said petition. But, the Court below, without considering the case of the petitioner in proper and perspective manner, has erroneously dismissed the said petition and hence, the said order may be set aside and the petition for amendment may be allowed for effective adjudication. Thus, he prayed to allow this civil revision petition.

4. The learned counsel for the respondents / defendants in unison submitted that the petitioner has sought to add various averments in the plaint, which would change the entire character of the suit and that the Court below has rightly dismissed the said amendment petition and the same need not be interfered with. Thus, he prayed to dismiss this civil revision petition.

5. Heard the learned counsel for the revision petitioner and the learned counsel appearing for the respondents and perused the records carefully.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Admittedly, the petitioner / plaintiff sold the suit



property to the 1st respondent / 1st defendant in the year 2005. As on date, the petitioner has got no right over the property. While so, seeking return of the property, the petitioner / plaintiff has filed the suit. Pending suit, she has filed a petition for impleading subsequent purchasers and the same was allowed and thereafter, she has filed the present petition seeking to add certain averments and reliefs in the plaint.

7. It appears that one Padma, who was impleaded as the 6th respondent / 6th defendant, claiming the right over the very same property, had filed a suit in O.S.No.110 of 2007 and later on, a compromise was entered between the 1st respondent / 1st defendant and the 6th respondent / 6th defendant, by which the said suit was withdrawn and then, the property has been sold by them to the 3rd respondent / 3rd defendant. Hence, by way of impleading petition, the subsequent purchasers viz., defendants 3 to 8 were subsequently impleaded by the petitioner / plaintiff. While so, seeking to add certain averments and reliefs in the plaint, the petitioner has filed the above interlocutory application. This Court is of the view that in the case of this nature, if the entire amendment sought for by the petitioner is allowed, it will change the entire character of the suit. The learned Judge has rightly held that except certain averments in respect of the respondents 3 to 8, the other averments or reliefs cannot be permitted to be amended and hence, declined to grant the relief. This Court does not find any reason to interfere with the order passed by the Court below.

8. In view of the above, this civil revision petition is dismissed. No costs.

Sd/-
Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar

gcg

To

1. The Additional Subordinate Judge,
Tirunelveli.
- 2 The Record Keeper, VR Section,
Madurai Bench of Madras High Court, Madurai (Two Copies)

+1 cc to MR.D.NALLATHAMBI, Advocate SR.No.64423

order made in
C.R.P. (PD) (MD) No.769 of 2017
28.04.2018