



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (PD) (MD) No. 1664 of 2016

and

C.M.P. (MD) No. 8123 of 2016

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C.Chellamy

... Revision Petitioner/

1st Defendant/Petitioner

Vs

1.G.Parthasarathi

2.G.Ramamoorthy

3.J.Renuka

4.J.Rajaram

5.J.Praveen Kumar

6.C.Seerkalan

7.R.Roja

8.R.Manikandan

... Respondents

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 12.08.2015 passed in I.A.No.447 of 2015 in O.S.No.95 of 2015, on the file of District Munsif, Virudhunagar dated 03.12.2015 and to allow this Revision.

For Petitioner : Mr.P.Velmurugan

For R1 to R5 : Mr.Lakshmi Gopinathan
for M/s. Polax Legal Solutions

For R6 to R8 : No appearance

ORDER

O.S.No.95 of 2015 on the file of the District Munsif, Virudhunagar, was filed by the respondents herein against the revision petitioner and two others, seeking the relief of declaration and permanent injunction. In the said suit, the revision petitioner herein who is shown as a first defendant filed I.A.No.447 of 2015 for rejection of plaint. The said I.A., came to be dismissed. Challenging the same, this Civil Revision Petition has been filed.

2.Heard the learned counsel on either side.

3.It is true that the vendor of the plaintiffs filed a suit seeking recovery of possession and that the said suit was initially dismissed, but decreed at the First Appeal stage and that the matter is presently pending at the stage of Second Appeal before this



Bench. Therefore, the learned counsel appearing for the revision petitioner contends that the purchaser could not have filed a suit for injunction when their vendor applied for recovery of possession.

4.No doubt, this contention appears to be formidable. But then, as rightly pointed out by the learned counsel for the respondents, the injunction suit instituted by the present revision petitioner herein against the present plaintiffs suffered a dismissal. Since, there are too many facts to go into, this Court is of the view that it would be just and proper to allow the parties to contest the suit on merits.

5.In this view of the matter, the order impugned in this Civil Revision Petition is sustained and this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

6.It is made clear that all the defences available to the revision petitioner and other defendants are left open.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The District Munsif,
Virudhunagar.

+1cc to Mr.P.Velmurugan,Advocate Sr.No.91617

+1cc to M/s.Polax Legal Solutions,Advocate Sr.No.91519

PNN

MK/SKN/SAR3/04.12.2018/2P/4C

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