



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

CRP (MD)No.1880 of 2016 (PD)

1.Radha Rukmani

2.Gengammal

....Petitioners

Vs.

1.Chellammal

2.Parvathi

3.Sornam

4.Krishnamoorthy

5.Anandavalli

... Respondents

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 14.09.2015 in I.A No.1094 of 2014 in OS No.68 of 2012 on the file of the District Munsif Court, Kovilpatti.

For Petitioners : Mr.G.Prabhu Rajadurai

For Respondents : Mr.P.Rajagopalan for
for Mr.R.Devaraj R4 & R5
R1 to R3 - No appearance

ORDER

The revision petitioners herein are the plaintiffs in O.S.No.68 of 2012 on the file of the District Munsif Court, Kovilpatti. The suit is one for declaration and consequential permanent injunction. The suit was filed as against the respondents Krishnamoorthy and Anandhavalli. The case of the plaintiffs is that the property originally belonged to one Goswamy. The said Goswamy executed a registered mortgage deed in favour of one Ponniah Velar in the year 1945. According to the plaintiffs, the said Ponniah Velar made a oral gift in favour of his daughter namely, Subbulakshmi in the year 1975. The said Subbulakshmi effected sale of the suit property in favour of the revision petitioners in the year 2000. The defence of the original defendants is that Ponniah Velar died interstate leaving behind the legal heirs and that they had purchased the property only from them. They do not accept Subbulakshmi as one of the legal heirs.

2. When the contest was thus going on, the persons claiming to be legal representations of the original mortgager Goswamy wanted to implead themselves in this suit. They filed I.A.No.1094



of 2014. The same was allowed by the court below. The correctness of the said order impleading the said third parties is in question in this Civil Revision Petition.

3. Even though the persons proposed to be impleaded as defendants were served, they have not chosen to enter appearance. Their names are also printed in the cause list. As rightly pointed out by the learned counsel appearing for the revision petitioners, the presence of the proposed defendants is absolutely unnecessary for adjudicating the issue that has been raised in the suit. In the suit filed by the revision petitioners, it is accepted by both the revision petitioners as well as the original defendants that Ponniah Velar was the person from whom they trace their title. This is an accepted position. Things do not go beyond Ponniah Velar. Therefore, if any right of any persons who is tracing his title from the original mortgager arises, the same will have to be established only in an independent suit. Those persons cannot seek to get themselves impleaded in the current suit. In any event, the revision petitioners being the *dominus litis* can choose the persons against whom they seek relief. No relief is sought for by the revision petitioners against the proposed defendants.

4. The court below erred in allowing I.A.No.1094 of 2014 by the order dated 14.09.2015. In this view of the matter, the order impugned in this Civil Revision Petition is set aside. This Civil Revision Petition stands allowed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To
The District Munsif, Kovilpatti.

Copy to
The Section Officer, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Devaraj, Advocate Sr.No.78247
+1cc to Mr.G.Prabhu Rajadurai, Advocate Sr.No.77937

SKM
VB/KAK/SAR1/03.09.2018/2P/6C