



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (PD) (MD) No. 2149 of 2018

and

C.M.P. (MD) No. 9527 of 2018

S.M. Jameela

... Petitioner/3rd Party

Vs

1. Subburaj

... 1st Respondent/Plaintiff

2. Kumar

3. Viswanathan

... Respondents 2&3/Defendants

PRAYER: Petition filed under Article 227 of the Constitution of India to set aside the judgment and decree dated 17.02.2017 made in O.S.No.24 of 2016 on the file of the Principal District Judge, Theni and allow the Civil Revision Petition.

For Petitioner : Mr.P.Arun Jayatram

For R1 : Mr.B.Rajesh Saravanan

For R2 : No appearance

For R3 : Not Claimed

ORDER

A third party to the suit proceedings is the revision petitioner herein. The revision petitioner's husband Syed Munavar entered into a registered sale agreement with one T.Kumar and Viswanathan who are respondents 2 and 3 herein in respect of property measuring 1 acre and 24 ½ cents in S.No.884 in shanmugasundarapuram village, Theni District. It was followed by a registered sale deed in favour of the revision petitioner on 11.11.2015 executed by Karuthammal who is the grandmother of Kumar and Vishwanathan and their sister Kanaga.

2.The grievance of the revision petitioner is that to defeat her rights a sale agreement was executed by Kumar and vishvanathan in favour of the first respondent Subbaraj on 11.11.2015. According to the revision petitioner O.S.No.24 of 2016 on the file of the Principal District Judge, Theni was collusively instituted on 11.04.2016 and the matter was referred to mediation on 10.02.2017 and it was returned as having been settled and that as per mediation report, on 17.02.2017 a decree came to be passed in favour of the



first respondent.

3.It is further submitted that based on the said decree, a sale deed was executed by the Court on 14.08.2018. Alleging commission of fraud and contending that he cannot file an independent suit, this Civil Revision Petition has been taken out under Article 227 of the Constitution of India.

4.This Court called upon the first respondent to file an affidavit in this regard. The first respondent has since filed an affidavit dated 29.10.2018, in the said affidavit, the first respondent had stated that the property purchased by the revision petitioner vide Document No.359/2016 and the property purchased by him in Document No.3799/2018 are different and that he has no claim over the property purchased by the revision petitioner. This statement made by the first respondent is recorded.

5.It is further made clear that if still some dispute arises, between the parties, it is always open to the revision petitioner to file an independent suit and that the maintainability of the said suit will not be questioned by the first respondent herein. Since, the revision petitioner is not a party to O.S.No.24 of 2016, on the file of the Principal District Judge,Theni, the decree made in O.S.No.24 of 2016, PDJ, Theni, will not in any manner impair the rights of the revision petitioner.

6.With these observations this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The Principal District Judge,
Theni.

+ 1 CC TO Mr.B.RAJESH SARAVANAN, ADVOCATE IN SR No. 92872
+ 1 CC TO Mr.P.ARUN JAYATRAM, ADVOCATE IN SR No. 18813

PNN
TE/RSK/SAR-3 : 13/12/2018 : 2P/4C