



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:13.06.2018

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (MD) No.1911 of 2013 (PD)

and

M.P. (MD) No.1 of 2013

R.Nedunchezian

...Petitioner/2nd Respondent/
Proposed Defendant

Vs.

1.S.Durairajan

2.D.Chitra

...Respondent 1&2/Petitioner/
Defendant

3.S.P.S.Loganathan

...3rd Respondent/1st Respondent/
Plaintiff

PRAYER: Petition filed under Section 227 of Constitution of India, to set aside the Fair and Decretal order, dated 24.07.2013 passed in I.A.No.9 of 2011 in O.S.No.127 of 2008 on the file of the I Additional District Munsif Court, Kumbakonam and allow the Civil Revision Petition.

For Petitioner : Mr.M.Lakshmi Sankar

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed against the order passed by the I Additional District Munsif Court, Kumbakonam in I.A.No.9 of 2011 in O.S.No.127 of 2008.

2.The brief facts that are necessary for the disposal of the Civil Revision Petition are as follows:-

The third respondent in the Civil Revision Petition filed a suit in O.S.No.127 of 2008 on the file of the I Additional District Munsif Court, Kumbakonam for permanent injunction restraining the respondents 1 and 2 herein in this Civil Revision Petition from interfering with his peaceful possession and enjoyment of the suit property. The suit property is an extent of 7700 Sq.feet in Town Survey No.863 situated at Mooppakkoil Village, Kumbakonam Taluk. The petitioner has purchased a portion of the suit property during the pendency of the suit. It is not in dispute that the petitioner has purchased only during the pendency of the suit, whether he is aware of the suit or not, he is bound by any decision that is made in the suit. It is stated that the revision petitioner has also filed a separate suit in respect of the property purchased by him.



3. In these circumstances, the defendants 1 and 2 in the suit filed I.A.No.9 of 2011 in O.S.No.127 of 2008 to implead the revision petitioner, namely, the subsequent purchaser during the pendency of the suit as a party to the suit. This application was opposed by the revision petitioner as well as the plaintiff in the suit. The trial Court however allowed the petition holding that the revision petitioner is a proper and necessary party as he has purchased the property during the pendency of the suit. Further, it is also pointed out that the nature of the suit will not change because of the impleadment of the revision petitioner. Aggrieved by the order allowing the petition to implead the revision petitioner, the revision petitioner has preferred this Civil Revision Petition.

4. The learned counsel appearing for the revision petitioner submitted that there is no cause of action as against the revision petitioner in the suit for permanent injunction as the relief is personal. The learned counsel further submitted that the suit has been filed by him in respect of the property purchased by him in O.S.No.127 of 2008 as against the respondents in the Civil Revision Petition and that the petition to implead the revision petitioner is not necessary. It is also stated that no prejudice would be caused to the other parties, in case, the revision petitioner is not impleaded as a necessary party.

5. This Court is unable to accept the contentions of the revision petitioner. First of all, the revision petitioner is only a subsequent purchaser who has no independent right. However, he would either come on record to support the case or bound by the decision in whichever way the Court decide. The Court below observed that the revision petitioner is a proper and necessary party for an effective adjudication.

6. Considering the fact that the presence of the petitioner will avoid multiplicity of proceedings and the issue whether the plaintiff in the suit is entitled to pray for permanent injunction can be adjudicated only in the suit in O.S.No.127 of 2008, merely because, another suit is pending at the instance of the revision petitioner, it cannot be stated that the revision petitioner is not a proper and necessary party in the suit in O.S.No.127 of 2008. The petitioner is expected to implead himself as a party to the proceeding to protect his interest as he is bound by the decision. In order to avoid multiplicity of proceedings and conflicting views, the revision petitioner can be impleaded and both suits have to be tried together.

7. This Court is of the view that the revision petitioner is a necessary party in the suit in O.S.No.127 of 2008 and the Civil Revision Petition is liable to be dismissed. The order of the I Additional District Munsif Court, Kumbakonam in I.A.No.9 of 2011 in



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O.S.No.127 of 2008 is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(T&P)

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/True Copy/

Sub Assistant Registrar

To
The Additional District Munsif Court,
Kumbakonam.

+1cc to Mr.M.Lakshmi Sankar, Advocate in SR. No.68301
rmi
MK/SB/SAR 1/29.06.2018/3P/3C

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