

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAIWAMY

C.R.P.(PD).No.1371 of 2013
and M.P.No.1 of 2013

1.R.Nirmala
2.Karmel Francies

... Petitioners

Vs.

R.Selvaraj (Deceased)
1.S.J.Vijaya Lakshmi
2.S.Meghala
3.S.Radhika
4.E.Saravanan
5.S.Radha
6.S.Chandran

(R2 & R3 are minors rep by their mother and natural guardian S.J.Vijaya Lakshmi)

... Respondents

Petition filed under Article 227 of the Constitution of India against the order and decretal order passed in I.A.No.20380 of 2011 in O.S.No.6861 of 2006 dated 18.12.2012 passed by the XVIII Assistant City Civil Judge, Chennai.

For Petitioners : Mr.C.Ajithkumar

For Respondents : Mr.S.Baskaran (R4 to R6)

R1 to R3 - not ready in notice

ORDER

Challenging the fair and final order passed in I.A.No.20380 of 2011 in O.S.No.6861 of 2006 on the file of the XVIII Assistant Judge, City Civil Court, Chennai, the proposed respondents have filed the above Civil Revision Petition.

2.The plaintiffs filed the suit in O.S.No.6861 of 2006 for declaration and for recovery of possession. In the said suit, the plaintiffs filed an application in I.A.No.20380 of 2011 to implead the petitioners as defendants in the suit. In the affidavit filed in support of the petition the plaintiffs have stated that the suit was filed by them in respect of Survey No.147/1 of Survey No. 147 and Old Paimash Nos.298 to 305, No.65, Kolathur Village and that the petitioners purchased the properties from the respondents 4 to 6. Further, the plaintiffs have stated that in the two Sale Deeds under which the petitioners purchased the property, the Survey Number has been mentioned as 147/1 part instead of 147/1. Further, the plaintiffs have stated that since their property was sold to the petitioners, they are proper and necessary parties to the suit. The application filed by the plaintiffs was contested by the proposed respondents. The trial Court, taking into consideration the case of both parties, allowed the application. Since the

plaintiffs have specifically stated that the suit Survey Number and the Survey Numbers mentioned in the two Sale Deeds of the petitioners are same, they are proper and necessary parties.

3.The learned counsel for the petitioners submitted that the petitioners' property is totally different from the suit property.

4.Since *prima facie* the trial Court came to the conclusion that the suit Survey Number and the Survey Number mentioned in the Sale Deeds are identical, they are proper and necessary parties and impleaded them as defendants in the suit. Further, the case made out by the petitioners is a matter for evidence which can be decided only after a full fledged trial. In such view of the matter, I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and the same is dismissed.

5.The trial Court is directed to dispose of the suit in O.S.No.6861 of 2006 on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order, uninfluenced by any of the

observations made in this Civil Revision Petition. No costs. Consequently,
the connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes
va

24.09.2019

To
1.The XVIII Assistant City Civil Judge, Chennai.



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C.R.P.(PD).No.1371 of 2013

M. DURAISWAMY,J.

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**C.R.P.(PD).No. 1371 of 2013
and M.P.No.1 of 2013**

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