

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD) No.383 of 2015

And

M.P.No.1 of 2015

Vijayakumar (dead)

1.V.Kalavani
2.Komathy
3.V.Srilekha

(Petitioners 1 to 3 are legal heirs
of deceased Vijayakumar)

... Petitioners

Vs.

1.Sundaravaradam
2.The Thiruvateeswarar Hindu
Janopakara Nidhi Ltd,
3.Varma and Company

... Respondents

Prayer:

Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 07.10.2014 passed in I.A.No.7429 of 2010 in O.S.No.551 of 2010 on the file of the Learned XI Assistant City Civil Court at Chennai.

For Petitioners : Mr.C.M.Mohanasundaram

For Respondents : Mr.N.Manoharan for R1
Mr.V.Manohar for R2

ORDER

The petitioners are the plaintiffs in the suit in O.S.No.551 of 2010. The Trial Court allowed the impleading petition filed by the third party/ first respondent herein, against which, the present civil revision petition has been filed.

2.The first petitioner's husband is the owner of the property. He obtained loan from the second respondent and executed a Mortgage Deed. Though the entire loan amount was paid and the loan was discharged, the second respondent did not discharge the property. Hence, he filed the suit for redemption before the Trial Court. Pending suit, the suit property was auctioned by Varma and Company/ third respondent and the first respondent participated in the auction as a bidder. Though the bid was not successful, the first respondent filed petition to implead him in the said suit. The said petition was allowed by the Trial Court against which, the petitioners have filed this revision.

3.The learned counsel appearing for the petitioners would submit that Varma and Company bought the property and auctioned the same, however, the auction was not successful. Even then, the first

respondent filed the impleading petition for impleading him which is un-necessary and it is only to drag on the suit proceedings.

4. Heard the arguments advanced on either side and perused the materials available on record.

5. Mere allowing of the impleading petition will not take away the right of the petitioners/ plaintiffs to agitate before the Trial Court. The other issues are triable issues which have to be decided by the Trial Court only after perusing the entire documents and evidence adduced on the side of the plaintiffs and defendants.

6. Hence, this Court is of the view that merely because the impleading petition was allowed, the rights of the petitioners will not be prejudiced. Therefore, this Court do not find any irregularity in the order dated 07.10.2014 passed in I.A.No.7429 of 2010 in O.S.No.551 of 2010 by the XI Assistant City Civil Court at Chennai.

7. The civil revision petition is accordingly dismissed. It is made clear that this Court has not expressed any opinion on the merits of the case. The facts discussed in this order is only for deciding the revision. The learned XI Assistant City Civil Judge, Chennai, shall

M.DHANDAPANI,J.

proceed with the trial in O.S.No.551 of 2010, without being influenced by any of the observations made in this order and shall decide the matter independently, based on the records and in accordance with law.

8.The civil revision petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

09.04.2019

Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The XI Assistant City Civil Court,
Chennai.

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