

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

CRP.No.2411 of 2018 and

CMP.No.14863 of 2018

1. Neelammal
2. Govindammal
3. Shyamala

Petitioners/Plaintiffs 1 to 3

Vs

1. Rajendiran
2. Hamsa
3. The District Collector, Tiruvallur,
Tiruvallur Town & Taluk,
Tiruvallur District.
4. The Tahsildhar,
Taluk Office, Tirutani Town & Taluk,
Tirutanni.
5. The Sub Registrar, Tirutani,
Tirutani Town & Taluk,
Tirutani.

Respondent 1 to 5/Defendants 1 to 5

- 6.Valliyammal
- 7.Subramani
8. Indirani
9. Malliga

Respondents 6 to 9

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to allow the above civil revision petition by setting aside the lower court fair and decreetal order dated 4th day of December 2017 passed I.A.No:313 of 2016 in O.S.No:119 of 2015 on the file of the Hon'ble District Munsif, Tirutani.

For Petitioners : Mr. R. Udaya Kumar

For Respondent : Mr. A. Gouthaman (R1 & R2)

Ms. Poornima for
Mr. G. Vigneshwar (R6 to R9)

O R D E R

The above Civil Revision Petition is filed challenging the order passed by the learned District Munsif, Tirutani in I.A.No.313 of 2016 in O.S.No.119 of 2015 by which order respondents 6 to 9 have been impleaded in the above suit.

2. O.S.No.119 of 2015 which had been filed by the revision petitioners for the following reliefs with reference to the two items of properties.

(i) To declare that the sale deed document No.3217 of 2015 dated 22.07.2015 SRO Tirutani showing the conveyed lands as one piece of property with the boundaries as shown in Schedule- "B" is null and void and not binding on the plaintiffs consequentially have the entry deleted from the registers of the 5th defendant.

(ii) Permanent injunction restraining the defendants 1 and 2, their men, agents successors, legal heirs or representative, executors and assigns from in any manner interfering with the cultivating activities of the plaintiffs or in any other manner disturbing the peaceful possession and enjoyment of the suit schedule property by the plaintiffs.

(iii) Permanent injunction restraining the 2nd defendant from alienating or in any manner encumbering the suit Schedule "A" property till a lawful division is effected between the plaintiffs and the 2nd defendant.

3. During the pendency of the suit, the implead Petition had been filed by the proposed parties on the ground that they are also joint patta holders of the suit property and have to be heard before orders are pronounced in the suit.

4. The revision petitioners/plaintiffs had vehemently opposed the said petition on the ground that the suit is for a limited relief and the proposed parties have been set up by the defendants. They have further stated that in the event of their having any right, they have to first establish the said right and they cannot seek to have their rights dealt with in a suit filed by the revision petitioners and that their remedy would only be filing a suit for partition.

5. The learned District Munsif, Tirutani, after considering the submissions of either party and on perusing the documents that had been filed on the side of either party, had permitted the respondents 6 to 9 to be impleaded as defendants 6 to 9 in the suit.

6. The learned Judge has held that the proposed parties are joint patta holders and therefore they are necessary and proper parties for adjudication of the case. Challenging the said order, the revision petitioners are before this Court.

7. Heard Mr.R.Udaya Kumar, learned counsel appearing on behalf of revision petitioners, who would argue that the plaintiffs being the title holders can elect whom they would sue against and further if at all the proposed parties had any right, the remedy was only by way of filing a suit for partition.

8. He would further submit that they are not in possession of the suit property and they have no interest whatsoever in the said property which is in the exclusive possession and enjoyment of the revision petitioners.

9. Mr. A. Gouthaman, learned counsel appearing for respondents 1 and 2 and Mrs.Poornima, learned counsel appearing for Mr. G. Vigneshwar, learned counsel appearing on behalf of the proposed parties would submit that the plaintiffs have themselves stated in their very Plaint that the grandmother of the proposed parties is one of the joint patta holders in respect of the suit property and having made such a submission they ought to have arrayed all the legal heirs in the suit. They would therefore submit that the order does not deserve to be reconsidered.

10. Heard the parties and perused the documents. It is seen that the revision petitioners have themselves in paragraph No.2 of the plaint stated that the grandmother of the proposed parties one Mrs. Ellammal was a joint patta holder along with others in patta No. 595 and the total extent in respect of which the joint patta has been issued was an extent of 3 Acres and 76 Cents.

11. They have further contended that the plaintiffs have an undivided share over the remaining 2 Acres and 30 Cents, since the extent of 1 Acre and 46 Cents of the undivided share has been purchased by the first defendant's parents under three different sale deeds. The proposed parties seek to be impleaded on the ground that they had to safeguard their right and interest over the suit property and that they have also been dealing with the suit properties and therefore their interests have to be protected. Having themselves admitting to the fact that the grandmother of the proposed parties is a joint patta holder in respect of the suit properties, no prejudice is going to be caused to plaintiffs, if the proposed parties are impleaded.

12. The dispute with reference to the first relief insofar as the suit property is concerned is apt the first defendant whereas the other two reliefs related to the entire property in which all stake holders would be interested and therefore the

order impleading the proposed parties as defendants 6 to 9 does not suffer from any infirmity.

13. The Civil Revision Petition is therefore dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrn/dua

To

1. The District Munsif,
Tirutani.

2. The District Collector, Tiruvallur,
Tiruvallur Town & Taluk,
Tiruvallur District.

3. The Tahsildhar,
Taluk Office, Tirutani Town & Taluk,
Tirutanni.

4. The Sub Registrar, Tirutani,
Tirutani Town & Taluk,
Tirutani.

+2cc to Mr. R. Udaya Kumar, Advocate sr.no.18844

+1cc to M/s.A.Gouthaman, Advocate sr.no.19188

+1cc to Ms. Poornima, Advocate sr.no.19187

सत्यमेव जयते

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