

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.11.2019
CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.3516 of 2019

1.Sambasivam (died)
2.Suseela
3.Uma Shankari

... Petitioners

-Vs-

1.A.Periyasamy Goundier (died)
2.P.A.Nazeer Ahmed
3.Adhikesavan
4.Sathiyarayanan
5.Kasthuri
6.A.B.Khaleelur Rahman

.... Respondents

Prayer : Civil Revision Petition under Section 115 of C.P.C., to set aside the fair and decreetal order dated 27.08.2019 passed in I.A.No.3 of 2019 in O.S.No.274 of 2010 on the file of the Additional Sub Court at Vellore.

For Petitioner : Mrs.K.R.Sundarakantham

O R D E R

This revision has been filed against the fair and decreetal order dated 27.08.2019 passed in I.A.No.3 of 2019 in O.S.No.274 of 2010 on the file of the Additional Sub Court at Vellore.

2. Before the Court below, the petitioners are the plaintiffs. They filed the suit against the defendants for specific performance. It is the case of the plaintiffs that the plaintiffs entered into a sale agreement with the second defendant, who was the owner of the property, in the year 1994. Thereafter, even though the plaintiffs claimed to have been ready to get on with the sale deed executed, for which they were ready with the entire sale consideration and in fact with the stamp papers, the second defendant had not come forward to execute the sale deed and they have filed the suit in the year 1995. Thereafter, the suit has been transferred and subsequently, in the present Court ie., the Additional Subordinate Court, Vellore it has been renumbered as O.S.No.274 of 2010, where, after examination of witnesses, the suit is posted for arguments.

3. At this stage, the present I.A.No.3 of 2019 has been filed by the plaintiffs under Order XIII Rule 2 of C.P.C., to

receive additional documents on the ground that, the suit property mentioned in O.S.No.404 of 1999, is nothing but the same 'C' schedule property in the present suit and in this regard they applied for the Certified copy of the judgment and decree, however, the said application had been returned stating that the entire records were destroyed as per the rules and only for the said purpose, the I.A.No.3 of 2019 was filed.

4. I have heard the learned counsel for the petitioners and have perused the materials placed on record.

5. In the impugned order, the learned Judge has made it clear that, the suit in O.S.No.404 of 1999 filed by the plaintiffs is no way connected with the present suit or the issues raised in the present suit, as in the said suit, the petitioners / plaintiffs were not party. Moreover, it is the case of the petitioners / plaintiffs that they entered into the sale agreement with the second defendant and since second defendant did not come forward to execute the sale deed, they have filed a suit in the year 1995 itself and thereafter, during the pendency of the suit, if the second defendant creates any third party right by entering into an agreement with the first defendant or sold the property or settled the same in favour of other defendants, that will bind on them as transaction lis pendens. Therefore, on that angle also, the present need of marking the documents as claimed by the plaintiffs / petitioners in the present suit for which the present application has been filed, is not at all necessitated.

6. Therefore, the learned Judge has rightly rejected the application on the ground that the suit is ripe for arguments and it is posted for arguments from 28.11.2018 on various dates. Without arguing the case, since the present application has been filed and since the documents sought to be marked is no way connected with the present suit at all, this Court finds that, there is no infirmity in the said reasoning given by the learned Judge while dismissing the I.A., in the impugned order.

7. In the result, the Civil Revision Petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

To Sub Assistant Registrar

The Additional Subordinate Judge at Vellore.

AKM/03.12.19/2P-2C /

C.R.P. No.3516 of 2019