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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17..12..2019
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.4130 of 2019
and
C.M.P.No.26900 of 2019

1.Manickam
2.Porappan

... Petitioners/Plaintiffs

-Versus-

1.Porappa Goundar
2.A.P.Pachamuthu
3.P.Palanisamy
4.Kuppusamy

... Respondents/Defendants

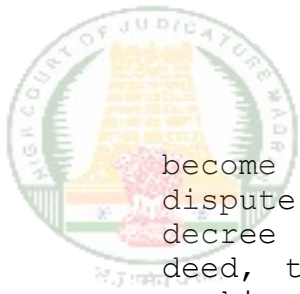
Prayer: Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 28.08.2019 made in I.A.No.895 of 2018 in O.S.No.294 of 2013 by the District Munsif, Sankari, Salem District.

For Petitioner : Mr.T.Saikrishnan

ORDER

This civil revision petition is directed against the order of the learned District Munsif, Sankari, Salem District, dated 28.08.2019 passed dismissing the application filed by the petitioner in I.A.No.895 of 2018 in O.S.No.284 of 2013 under Order I, Rule 10 of CPC, seeking to permit him to conduct the suit against the plaintiff.

2. The 2nd petitioner herein is none other than the father of the 1st petitioner. The 2nd petitioner filed a suit against the respondents herein praying for a preliminary decree for partition and separate possession of his 1/4th share in the property and for other reliefs. Pending the above suit, the 2nd petitioner is stated to have executed a sale agreement on 08.05.2009 in favour of the 1st petitioner in respect of his 1/4th share. Thereafter, the 1st petitioner filed a suit against the 2nd respondent for specific performance of contract of agreement of sale which was decreed and the 1st petitioner got the sale deed executed in his favour. The 1st petitioner has



become the absolute owner of a portion of the property in dispute by virtue of the sale deed executed pursuant to the decree in the specific performance suit. Based on such sale deed, the 1st petitioner filed the application under revision, seeking to implead himself as the plaintiff. The trial court on considering the available materials, dismissed the application. It is this order which is now under challenge in this revision petition.

3. This civil revision is coming up for admission. I have heard the learned counsel for the petitioner and perused the records carefully.

4. The suit was originally filed by 2nd petitioner, who is none other than the father of the 1st petitioner, for partition and separate possession of his share. Pending suit, the 1st petitioner stated to have obtained a decree for specific performance as against his father, the 2nd petitioner and got a sale deed executed in his favour pursuant to the decree for specific performance. Based on such sale, the 1st petitioner moved the application under revision seeking to implead himself as one of the plaintiff in the suit. On considering the available materials, the trial court dismissed the application doubting the bona fide of the 1st petitioner in obtaining a decree against his father, the 2nd petitioner, for specific performance and the sale deed executed pursuant to the decree for specific performance. The trial court has further held that the affidavit filed in support of the petition for impleadment was not clear as to whether the petitioner had filed the petition as an absolute owner of a portion of the property in dispute on the strength of the sale deed in his favour or he wanted to conduct the case on behalf of his father. The trial court has also held that if at all the petitioner wanted to establish his right, it was always open to him to establish the same in the manner known to law and he could not seek to implead himself as a plaintiff in the suit filed by the 2nd petitioner. The trial court having considered the facts and circumstances of the case and the legal position in this regard, has rightly dismissed the application under revision by way of impugned order and this court does not find any illegality or irregularity warranting interference at the hands of this court. Thus, the revision fails and the same deserves only to be dismissed.



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In the result, this Civil Revision Petition is dismissed and the order of the court below is confirmed. No costs. Consequently, connected CMP is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The District Munsif,
Sankari, Salem District.

+1cc to Mr.T.Saikrishnan, Advocate Sr.105588

Civil Revision Petition
No.4130 of 2019

mr[co]
srg 15/07/2020