

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19..12..2019
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.4168 of 2019
and
C.M.P.No.27150 of 2019

S.Prakash

...Petitioner

-Versus-

Siddhapillai (Died)

- 1.Chandra
- 2.Karthikeyan
- 3.Arasiyarku Arasi
- 4.Tharaheswari
- 5.Manoranjitham
- 6.Kanagasabapathi
- 7.Santhi
- 8.Arun
- 9.Saranya
- 10.Sundaram
- 11.Mohan

...Respondents

Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 21.10.2019 made in I.A.No.2 of 2019 in O.S.No.57 of 2013 by the District Munsif Court, Sankari, Salem District.

For Petitioner : Mr.C.Kulanthaivel

For Respondents : Mr.N.Manokaran for RR1 and 4

ORDER

This civil revision petition has been fled against the order dismissing the application filed by the petitioner under Order I, Rule 10 of CPC seeking to implead himself as a party defendant in the suit filed by one Siddhapillai (since deceased) and continued by the respondents 1 to 4.

2. Though this civil revision is coming up today for admission, by consent of the learned counsel on either side, the civil revision petition itself is taken up for final hearing.

3. Originally the suit was filed by one Siddhapillai (since deceased) for (i) declaration of title in his favour and for consequential relief of permanent injunction interdicting the defendants 1 and 2 from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit properties; (ii) declaration declaring that the settlement deed dated 02.11.2012 executed by the 1st defendant in favour of the 2nd defendant in respect of the suit property is not binding the plaintiff as it is executed fraudulently and not true and valid document; and (iii) permanent injunction interdicting the defendants 1 and 2 from in any way or in any manner alienating and encumbering the suit properties. The petitioner claims to have purchased a portion of the suit property pending suit proceedings from the 2nd defendant. After purchase, the petitioner filed the application under revision to implead himself as a party defendant stating that he was not aware of the pendency of the suit. Since the some right has been created by virtue of sale deed, according to the petitioner, he is also necessary party to the suit. But, the trial court has dismissed the application on the ground that the petitioner had purchased the property after fully aware of the suit proceedings and he cannot be stated to be a bonafide purchase in the eye of law. Challenging this order, the petitioner, who is a third party to the suit, is before this court.

4. I have heard the learned counsel for the petitioner and the learned counsel for the respondent and also perused the records carefully.

5. The learned counsel for the petitioner would contend that the petitioner was not aware of the pendency of the suit and he is a bonafide purchaser and if any decree is passed in the suit, the interest of the petitioner would get affected. But, the court below, without considering the same, has erroneously dismissed the application.

6. Per contra, the learned counsel for the respondents 1 and 4 would contend that the petitioner purchased a portion of the suit property pendente lite after fully aware of the pendency of the suit proceedings and the plaintiffs being dominus litus, it is for them to choose the parties as defendant(s) and the petitioner cannot compel them to add a person against whom they do not want any relief. The court below has rightly dismissed the application and no illegality or irregularity can be attached to the same.

7. I have considered the rival submissions carefully.

8. It is an admitted fact that pending suit, the petitioner had purchased a portion of the suit property from the 2nd

defendant. Whether the sale transaction is valid or not is an issue to be decided. By way of purchase, the petitioner had acquired some interest over a portion of the suit property. If the petitioner is not impleaded in the suit as a party defendant and in the event any decree is passed in favour of the plaintiff, the same would unnecessarily lead to another round of litigation. Considering the facts and circumstances of the case and in the interest of justice, this court is inclined to set aside the order of the court below and implead the petitioner as a party defendant in the suit.

In the result, this civil revision petition is allowed. The order of the court below is set aside and the application in I.A.No.2 of 2019 in O.S.No.57 of 2013 on the file of the learned District Munsif, Sankari, is allowed and the petitioner herein is directed to be impleaded as 8th defendant in the suit. No costs. Consequently, connected CMP is closed.

Sd/-
Assistant Registrar(CO)MDU

//True Copy//

Sub Assistant Registrar

kmk

To

1.The District Munsif, Sankari, Salem District.

+lcc to Mr.N.Manokaran, Advocate, S.R.No.106031

+lcc to Mr.C.Kulanthaivel, Advocate, S.R.No.105729

Civil Revision Petition

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BP(CO)
KKV/23/07/2020

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