



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2019

CORAM:

THE HONOURABLE MS. JUSTICE P.T. ASHA

C.R.P. (PD) (MD) .No.1945 of 2011
M.P. (MD) .No.1 of 2011

Venkattassalapandian .. Petitioner/1st petitioner/1st Plaintiff

Vs.

1.Yagamabal Achi

2.Raja

3.Shanmugam

.. Respondents 1 to 3/Respondents 1 to 3/
1st Defendants/Proposed Defendants 2 & 3

4.Vaijayanthimala . . 4th Respondent/2nd Petitioner/2nd Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 15.06.2011 passed in I.A.No.327 of 2011 in O.S.No.10 of 2009 on the file of learned District Munsif, Devakottai and set aside the same.

For Petitioner : Mr.S.Manikandan
For Respondents : Mr.B.Muruganandam for R1
No Appearance for R2 & R3

ORDER

The above civil revision petition is filed at the instance of the first plaintiff in O.S.No.10 of 2009.

2.The facts that are necessary for disposal of the civil revision petition of the petitioner are as follows:

The revision petitioner along with the fourth respondent herein had filed the suit in O.S.No.10 of 2009 on the file of the District Munsif, Devakottai, against the first respondent herein for perpetual injunction restraining the first respondent and her men and agents from interfering with the plaintiff's peaceful possession and enjoyment of the suit property. The suit property in question is an extent of 32 ½ cents which is in the northern portion of S.No.B1/124, Devakottai Town, Sivagangai District, within the specified boundaries. The cause of action upon which the suit O.S.No.10 of 2009 has been filed is that in the 2nd week of September 2008, the first respondent had threatened to tress-pass into the suit property. The basis on which, the suit has been filed is also on the ground that the father of the plaintiff



had not intended to sell the suit property to the first respondent herein.

3. When the suit was posted in the list, the revision petitioner and the fourth respondent herein came forward with a petition under Order 1 Rule 10 r/w Section 151 of the Code of Civil Procedure to implead the respondents 2 and 3 herein as proposed defendants 2 and 3 in the suit. The reason for seeking to implead them as party/defendants was that they had purchased the property on 09.07.2009 from the first respondent and therefore they are necessary parties to the suit. The first respondent had filed a counter *inter alia* contending that the petition was nothing but an attempt to protract the proceedings and to avoid trial.

4. The learned District Munsif, Devakottai, after hearing the parties, by his order dated 15.06.2011, was inclined to dismiss the said petition holding that the proposed parties are *pendente lite purchasers* and therefore, ultimate result of the suit would bind them. Challenging the said order, the first plaintiff as revision petitioner is before this Court.

5. Heard the counsels on either side.

6. From a perusal of the papers, it is seen that the cause of action for filing the suit O.S.No.10 of 2009 was the alleged tresspass by the first respondent in the 2nd week of September 2008. The proposed parties have purchased the property on 09.07.2009. It is needless to state that this cause of action was definitely not against the proposed parties. That apart, the affidavit filed in support of the petition seeking to implead the proposed parties does not give any reasons as to why the petitioner has waited till the matter was posted for trial to take out the application. Admittedly, the property has been sold on 09.07.2009 itself and the revision petitioner has not given any reason as to why they have waited for nearly two years for taking the petition. I do not find any infirmity in the order of the learned District Munsif, Devakottai, dismissing the said application.

7. This civil revision petition stands dismissed. The court below is directed to dispose of the suit within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/TRUE COPY/

Sub Assistant Registrar



To

1.The District Munsif, Devakottai.

2.The Section Officer,
E.R/V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.R. SUNDAR SRINIVASAN, Advocate (SR-85057[F] dated 04/09/2019)

+1 CC to M/s.B. MURUGHANANDAM, Advocate (SR-85266[F] dated 05/09/2019)

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JM/19.09.2019/3P/6C