



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2019

CORAM

WEB COPY

THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P.(PD) (MD) No.194 of 2019

and

C.M.P.(MD)No.873 of 2019

1.S.Sirajutheen

2.Fathaisa Beevi

:1st Petitioner/1st Petitioner//
2nd Petitioner/2nd Petitioner/Plaintiff

Vs.

S.Shajahan :2nd Respondent/Respondent/Proposed Secured
Plaintiff /Defendant

PRAYER: Civil Revision Petition is filed, under Section 227 of the Civil Procedure Code to call for records and set aside the fair and executable order dated 15.11.2018 in the application in I.A.No.465 of 2018 in O.S.No.33 of 2010 on the file of the Subordinate Court, Ramanathapuram.

For Petitioners : Mr.J.Bharathan

For Respondent : Mr.R.R.Thamothar Raj

O R D E R

The Civil revision petition has been preferred against the order passed in I.A.No.465 of 2018 in O.S.No.33 of 2010 on the file of the learned Subordinate Court, Ramanathapuram.

2.The petitioner herein as plaintiff filed the suit in O.S.No.33 of 2010 against the respondent for the relief of declaration and for the relief of permanent injunction.

3.The case of the petitioners is that the second petitioner who is none other than the wife of the first petitioner, has purchased the property from one Nasrutheen in the year 2009. The said Nasrutheen obtained the property from one Mohammed Dawood, whereas, those documents were fraudulently fabricated.

4.I.A.No.465 of 2018 was preferred by the plaintiffs seeking to implead the second petitioner as second plaintiff in the said suit.

5.The grievance of the petitioners is that if the second petitioner is not impleaded as a party, she has to file a separate suit in respect of the properties sold to her which would lead to multiplicity of proceedings.

6.On the other hand, the respondent in the counter statement has contended that the suit proceedings were lying before the Court from 2002 to 2008 and the petitioners are trying to introduce a new



case in the absence of cause of action and filing I.A.No.465 of 2018 to implead the second petitioner as second plaintiff in the suit.

7.It is stated that the case is posted for arguments and on the side of the plaintiff, Ex.P1 to P8 were marked. There is no legal necessity to implead the second petitioner as a second plaintiff at the stage of argument.

8.The trial Court, after hearing the grievance of the petitioner as well as the written statement and also perusing the documents, has observed that fact that the proceedings are pending before the Court from the year 2002 to 2008 and the case is posted at the stage of argument. This petitioner has filed the petition only with a view to deal with a proceedings. If the petitioner has any right over the property, he could have taken steps at the earliest. Since the second petitioner is none other the wife of the first plaintiff, these facts were very much observed by the trial Court by verifying the properties that were purchased by them and also their rights were very much discussed by the trial Court.

9.Though the facts were placed by both the parties before the trial Court, the trial Court has also observed the fact that whether the second petitioner is neither a necessary party nor a proper party to the suit and therefore, she cannot be impleaded as 2nd plaintiff in the suit. Hence, the petitioner seeking permission to implead the second plaintiff in the suit only for the purpose of producing Ex.P6 to P8 sale deeds executed in her favour and examined in respect of the above said document. Since the second petitioner has purchased the property immediately after filing a suit in the year 2010, she could have very well availed with the said documents. After analyzing the documents and evidence that have been placed by both the parties, the trial Court had concluded that the second petitioner is not at all a necessary party for adjudication.

10.As rightly held by the Court below, the second petitioner is neither a necessary party nor a proper party to the suit. This Court does not find any reason to interfere with the order passed by the Court below. Hence, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To
The Subordinate Judge, Ramanathapuram.

1 CC to M/s.R.R.THAMOTHAR RAJ, Advocate (SR-46201[F] dated
12/02/2019)

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-46247[F] dated
12/02/2019)

C.R.P. (PD) (MD) No.194 of 2019 (PD)
and
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