



EFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.02.2019
CORAM

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

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CRP (MD) .No.357 of 2019 (PD)
and
C.M.P. (MD) .No.1724 of 2019

Pappayee

... Petitioner/Petitioner/Plaintiff

Vs.

1.Krishnamoorthy
2.Neelavathi
Ponnammal (Died)
3.Kamatchi
4.Jeyalakshmi
5.Amutha
6.Vanitha
7.Suganya
8.Jeeva
9.Vijaya

... Respondents/Respondents/Defendants

... Respondents/Respondent Nos.6 to 10/
Proposed Parties

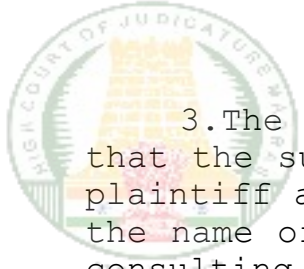
PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 01.02.2019 made in I.A.No.103 of 2018 in O.S.No.217 of 2009 on the file of the District Munsif Court, Lalgudi.

For Petitioner : Mr.D.Senthil

O R D E R

This Civil Revision Petition has been preferred against the order dated 01.02.2019 passed in I.A.No.103 of 2018 in O.S.No.217 of 2009 by the District Munsif Court, Lalgudi.

2.The petitioner herein is the plaintiff. The plaintiff has filed the suit for the relief to declare the sale deed dated 27.07.2005 on the file of the Sub-Registrar, Srirangam as null and void and also to declare that the settlement deed executed by the first defendant, which is registered as document No.1524/05 as null and void and other related reliefs.



3. The averments made in the plaint by the petitioner herein is that the suit property was in joint possession and enjoyment of the plaintiff and her family members and there was also a joint patta in the name of the plaintiff and her sons. The first defendant without consulting the other patta holders, had obtained a sale deed from the legal heirs of the deceased Venkatachalam Chettiyyar in the name of the second defendant. The said sale deed is a registered document and hence, the said sale deed was to be declared as null and void. The other documents, which claims to be the settlement deed, the defendant to defraud the plaintiff and other co-sharers, executed the same in favour of the second defendant. Therefore, the petitioner herein has preferred I.A.No.102 of 2018 before the trial Court to implead the parties, who have executed the sale deed in favour of the second defendant regarding the suit properties and 25 items in favour of the second defendant. The reasons stated by the petitioner is that he has failed to implead those persons, as necessary party in the said suit and hence, the petitioner has filed this petition and unless, the persons are impleaded as necessary party, he will be put to lot of inconvenience. Hence, the I.A has been filed.

4. Both the defendants have filed their written statement stating that the suit is of the year 2009 and the purpose for impleading the third party as defendants 3 to 10 were not properly explained by the petitioner herein and the same is filed at a very belated stage and no reason has been stated by the petitioner for impleading the proposed defendants. The trial Court observed the contention raised by both sides and also given a finding that the relief sought by the plaintiff is one for declaring the sale deed as null and void dated 27.07.2005, when it is also clearly stated by the plaintiff/petitioner herein that the person, who executed the sale deed in favour of the second defendant has very much stated in the deed and the present status of the case is that the examination of the witnesses are over and the case is posted for arguments. The petitioner had already made this averment in this plaint that the sale deed was executed by the second defendant fraudulently along with some members, who did not prefer any petition to implead them or already made the person as party in the said suit, whereas only on the concluding stage, the petitioner had filed this petition was not considered by the trial Court. However, the trial Court has also given a finding that he can very well examine the parties.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

6. Unless parties are impleaded and examined before the Court, a proper decision cannot be arrived at for granting relief claimed by the petitioner/plaintiff. When already the petitioner knows very well the parties, who are the parties in the sale deed, in which the plaintiff is claiming for declaration as null and void and that he has not added them as party respondents at the earliest point of time and only at the stage of arguments, it has been rightly dismissed by the trial Court.



7. In view of the above, the Civil Revision Petition filed by the petitioner does not have any merit and hence, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Munsif,
Lalgudi.

2. The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.

+1. C.C. to M/S.D.SENTHIL, Advocate SR.No. 49386

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