



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2019

CORAM

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP (MD) .No.2861 of 2018 (PD)

and

C.M.P. (MD) .No.12401 of 2018

K.Anandakumar

... Petitioner/Petitioner/Plaintiff

Vs.

1.B.Ponnumani

2.B.Vellimalai

3.B.Lakshmanan

... Respondents 1 to 3/Respondents

1 to 3/Defendants

4.S.Suresh

5.V.Esaac

...Respondents 4&5/ Respondents 4&5/Proposed
Parties

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 10.10.2018 in I.A.No.685 of 2018 in O.S.No.167 of 2013 on the file of the Principal District Munsif Court, Dindigul.

For Petitioner : Mr.R.J.Karthick

For R1 and R3 : Mr.H.Lakshmi Shankar

For R2, R4 and R5: No appearance

ORDER

This Civil Revision Petition has been preferred against the fair and decreetal order dated 10.10.2018 in I.A.No.685 of 2018 in O.S.No.167 of 2013 on the file of the Principal District Munsif Court, Dindigul.

2.The revision petitioner, who is the plaintiff has filed I.A.No.685 of 2018 for impleading the fourth and fifth respondents as the defendants 4 and 5 in the said suit.

3.In the said I.A., the plaintiff has stated that he filed the said suit for permanent injunction against the defendants 1 to 3. The defendants 1 to 3 and one Pasunthamarai Palaniammal are the children of one Ponnumuthulakshmi @ Ponnumuthu, who is the mother of the plaintiff. Originally, the suit property comprised in Survey No.93/7 belongs to one Rethinathammal and as per partition effected among the family members of the said Rethinathammal, the properties were allotted to the defendants 1 to 3. In the said



allotment, 65 cents were allotted to the plaintiff's mother. In view of the settlement deed executed by the plaintiff's mother on 12.04.2012, the plaintiff is enjoying the same by paying the revenue charges to the Government and now, the suit property is in possession and enjoyment of the plaintiff. It is further contended that the defendants have created documents fraudulently, was ignored by the plaintiff.

4.The defendants have filed their counter statement stating that the third defendant has sold the suit property on 16.02.2012 to one Thanapackiyam and the said property was once again sold to one Ramakrishnan on 12.06.2012. Further, the first defendant has sold a share of the suit property on 16.02.2012 to one Raja and C.Arumugam and therefore, contending that those persons are necessary parties to the suit the plaintiff filed I.A.No.211 of 2015, which was dismissed on 18.04.2017. Against which, the plaintiff has filed a Civil Revision Petition in C.R.P.(MD). No.1608 of 2017 before this Court and the same is pending. Suppressing the said fact, the plaintiff filed another I.A.No.685 to implead the defendants 4 and 5 as necessary parties to the suit.

5.The trial Court after observing the contention raised by both sides and the relief sought by the plaintiff has given a finding that the plaintiff has filed the suit for permanent injunction against the defendants 1 to 3 from making any interference to his peaceful possession and enjoyment of the same and with regard to the sale made by the fourth respondent in favour of the fifth respondent, no document whatsoever has been filed and further, with regard to the Survey No.93/7, the Encumbrance Certificate has been filed, and marked as Ex.A.1, dismissed the said I.A.

6.On perusal of the documents, it is seen that the fourth respondent has executed a sale deed in favour of the fifth respondent on 22.03.2017 in Survey Nos.93/7 and 93/7B and the plaintiff has filed the suit only for 65 cents, which lies in Survey No.93/7 to an extent of 1 acre 95 cents, whereas, the extent mentioned in the sale deed and the transaction made by the fourth defendant, are different. It is further seen that the suit is filed by the plaintiff against the defendants 1 to 3 for permanent injunction and the alleged sale transaction of the property, which is not related to the plaintiff's suit property and the sale transaction between the other parties are no way related to the decision or finding of this case.

<https://hcservices.ecourts.gov.in/hcservices/> 7. It is so in the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.



8. On hearing both sides and on perusal of the records, it is observed that the relief sought by the plaintiff is for permanent injunction against the defendants 1 to 3 and that the purpose of impleading the respondents 4 and 5 as necessary parties by mentioning the sale deed, which are no way relevant to the suit property or to the parties and no reason has been stated by the revision petitioner for the purpose of impleading them as necessary parties and the petition does not contain any averments as to how this sale transaction is relevant for deciding the issue, that too, for permanent injunction against the defendants 1 to 3 alone. Hence, when the said I.A. was filed by the revision petitioner without mentioning the relevancy or necessity for impleading the persons and how they are very much necessary parties to the suit is also not mentioned and the said I.A. was also filed at a very belated stage, the order of the trial Court in dismissing the said I.A., does not require any interference, Hence, this Civil Revision Petition is dismissed with cost of Rs.500/- to the Hon'ble Chief Justice Relief Fund and the same shall be paid by the petitioner, within a period of two weeks from the date of receipt of a copy of this order. However, the trial Court is directed to proceed with the case at the earliest, since the suit is of the year 2013. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal District Munsif,
Dindigul.

2. The Record Keeper, VR Section (2 copies)
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer,
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Madurai Bench of Madras High Court,
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+1 CC to M/s. R.J. KARTHICK, Advocate (SR-55535[F] dated
21/03/2019)

+1 CC to M/s. H. LAKSHMI SHANKAR, Advocate (SR-55543[F] dated 21/03/2019)
ns

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