



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2019

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P(PD) (MD)No.1012 of 2013

and

M.P. (MD) No.1 of 2013

Palchamy : Petitioner/12th Respondent (impleaded)
Defendant No.12

.. Vs ..

1.Pachammal : Respondent/Respondent/Plaintiff
2.Parumayee
3.Chellaveerammal
4.Selvi
5.Palveernan
6.Kasthuri
7.Vasanthi
8.Ramamoorthy
9.Pandurangan
10.Meenalosini
11.Kirankumar
12.Sengutty Arasan : Respondent 2 to 12/Respondents 1 to 11/
Defendants 1 to 11

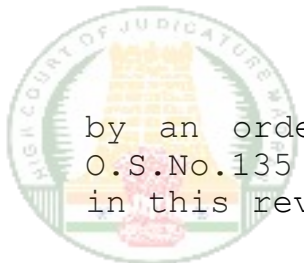
PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 19.02.2013 passed in in I.A.No.169 of 2012 in O.S.No.135 of 2011 on the file of the learned District Munsif cum Judicial Magistrate No.1, Usilampatti, Madurai District and allow this revision petition.

For Petitioner : Mr.C.Jeganathan

For Respondent 1 : Mr.A.Haja Mohideen
Respondents 2 to 12 dispensed with
vide order dated 05.07.2013

- - - - -

ORDER



by an order passed by the trial Court in I.A.No.169 of 2012 in O.S.No.135 of 2011. The order in I.A.No.169 of 2012 is challenged in this revision.

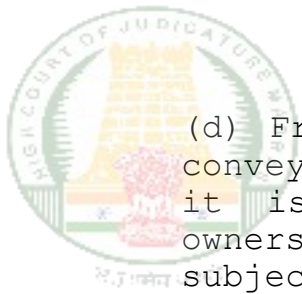
2.The first respondent in the Civil Revision Petition, as plaintiff, filed the suit in O.S.No.135 of 2011 on the file of the District Munsif Court cum Judicial Magistrate No.I, Usilampatti, Madurai District, for partition and separate possession of her $\frac{1}{4}$ share in the suit properties. The suit properties are described in two items. The first item is an extent of 46 cents out of 92 cents in Survey No.164/8B in Usilampatti Village, Periyakulam District. The second item is a house plot and building in Town Survey No.33.

3.The plaintiff claims $\frac{1}{4}$ share as a son of Chinniveerathevar @ Chinna Thevar, son of one Muthu Veera Thevar son of Chinni Veera Thevar. Though a portion of the property in the suit survey number was stated to have been disposed of, the suit has been laid for the eastern 46 cents out of 92 cents in Survey No.164/8B. It is stated even in the plaint that some of the defendants, namely, defendants 6, 8, 9 and 10 have executed a sale deed in respect of a portion of suit item 1 in favour of the 11th defendant by a registered sale deed dated 12.05.2011. The sale alleged to have been executed in favour of the 11th defendant was also challenged by the plaintiff. It is also admitted that the revision petitioner purchased a property from the 11th defendant by a registered sale deed dated 29.09.2011. Based on the sale deed, the revision petitioner is stated to be in enjoyment of the property purchased from the 11th defendant in the suit on 29.09.2011. It is in these circumstances, the plaintiff filed I.A.No.169 of 2012 to implead the revision petitioner as the 12th defendant in the suit as he has purchased the portion of the suit first item from the 11th defendant who is also a purchaser of the property from some of the defendants. The said application was contested by the revision petitioner mainly on the ground that he purchased Eastern $23\frac{1}{2}$ cents in the Western 47 cents out of 91 cents in Survey No.164/8B. It is stated that the land measuring $23\frac{1}{2}$ cents in the western 47 cents, out of 91 cents in Survey No.164/8B is not the suit property and that the plaintiff has no right, title or possession over the property which was purchased by the revision petitioner. It is also stated by the revision petitioner that he is a *bona fide* purchaser for valuable consideration without notice of the litigation. The trial Court allowed the petition to implead the revision petitioner as 12th defendant after recording the following facts:

(a) The revision petitioner has purchased the property from the 11th defendant which was in turn purchased by him from some of the defendants in the suit.

(b) The 11th defendant namely the father of the 12th defendant has denied the ownership and right of the plaintiff over the first item of suit property in the written statement.

(c) The 11th defendant has purchased eastern portion of the first item of the suit property.



(d) From the boundary description and the extent of lands conveyed under the sale deeds in favour of 11th defendant, it is admitted that the dispute is also about the ownership, right and enjoyment of the property which is the subject matter of the suit.

4. Though the dispute is only in respect of 1 cent as it was projected by the revision petitioner, the issue can be effectively adjudicated only in the presence of the revision petitioner who is the purchaser of the property from the 11th defendant who is already on record. This Court find no reason to interfere with the order of the lower Court especially when it is not vitiated by any irregularity or illegality. The object of Order I, Rule 10 of C.P.C. is to avoid multiplicity of proceedings. The dispute even if it is in respect of a small portion of the suit property, cannot be adjudicated without the presence of all persons interested and the revision petitioner himself admitted that the sale deed is also in respect of a small portion of the property which is the subject matter of the suit in O.S.No.135 of 2011. The transaction by which the revision petitioner claim title is during the pendency of the suit and the person under whom the revision petitioner claim title is a party to the suit. Merely because the revision petitioner has taken a stand with regard to the identity of the property which is the subject matter of the suit, until that is resolved by the trial Court at the time of final hearing, it cannot be said that the revision petitioner is not a proper and necessary party.

5. For all the above reasons and in order to avoid multiplicity of the proceedings, it is necessary that the revision petitioner is also made as a party in the suit. Hence, the Civil Revision Petition is dismissed and the order dated 19.02.2013 passed by the District Munsif cum Judicial Magistrate No.1, Usilampatti in I.A.No.169 of 2012 in O.S.No.135 of 2011 is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

To

The District Munsif cum Judicial Magistrate No.1,
Usilampatti.

+1 CC to M/s.VEERA ASSOCIATES, Advocate in SR-48860

C.R.P (PD) (MD) No.1012 of 2013
20.02.2019