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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2019

CORAM

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

C.R.P(PD) (MD)No.1123 of 2013

and

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

Ramanujam : Petitioner/2nd Respondent/1st Defendant

.. Vs ..

1.Abdul Rahman

2.Ramamoorthy : Respondents/Petitioners/3rd party

3.Seenivasan : Respondent/1st respondent/Plaintiff

4.Moideen Abdul Kadhar

5.Meharbanu

6.Mundaiya

7.The Sub Registrar,
Peravurani,
Thanjavur District.

8.The Village Administrative Officer,
Nattanikottai Village,
Peravurani Taluk,
Thanjavur District. : Respondents/Respondents 3 to 7/
Defendants 2 to 6

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to call for the records of the learned District Munsif, Pattukkottai, made in I.A.No.471 of 2012 in O.S.No.122 of 2011 and set aside the fair and decretal order dated 25.04.2013.

For Petitioner : Mr.S.Deenadhayalan

For Respondent 1 : No appearance

For Respondents

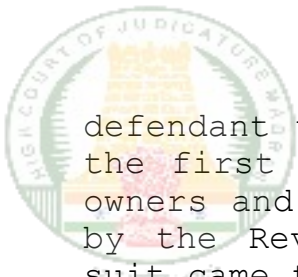
R2 to R8 : No appearance

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ORDER

This Civil Revision Petition is directed against the order passed by the learned District Munsif, Pattukkottai, passed in I.A.No.471 of 2012 in O.S.No.122 of 2011.

2.The third respondent in this Civil Revision Petition filed the suit in O.S.No.122 of 2011 for permanent injunction restraining the defendants in the suit from alienating the suit properties and for other reliefs. The suit was filed on the basis that the suit properties are the joint properties of the plaintiff and first



defendant who is the revision petitioner and others. Stating that the first defendant has obtained patta without notice to other co-owners and that the said proceedings of the Tahsildar was set aside by the Revenue Divisional Officer by order dated 31.05.2010, the suit came to be filed.

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3. During the pendency of the suit, the respondents 1 and 2 in the present Civil Revision Petition filed an interlocutory application in I.A.No.471 of 2012 to implead them as parties to the suit. In the affidavit filed in support of the petition, the respondents 1 and 2 stated that the property comprised in Survey No.43/16 (29 cents) and the property in Survey No.44/5 (8 cents) which are described as item Nos.84 and 88 were purchased by them by a sale deed dated 10.01.2011. It is stated that the plaintiff, who is the third respondent in the present Civil Revision Petition, had earlier sold the property along with others by a sale deed dated 30.12.2010 in favour of one Mohammed Ismail, son of C.R.Abdul Quidose and that they are in possession and enjoyment of the property after they purchased on 10.01.2011. Having regard to the facts narrated in the affidavit, it was contended by the respondents 1 and 2 that the plaintiff had no right in the property and that his rights had been acquired by respondents 1 and 2. Taking note of the facts narrated in the affidavit filed in support of the petition, the trial Court allowed the petition as the respondents 1 and 2 have claimed to be in possession of the property through the sale deed alleged to have been executed by the plaintiff along with another on 20.01.2010. As against the order passed by the trial Court allowing the petition to implead the respondents 1 and 2 in the Civil Revision Petition as parties to the suit, the present Civil Revision Petition has been filed by the first defendant in the suit.

4. The learned Counsel appearing for the revision petitioner submitted that the suit properties were taken delivery by the revision petitioner by filing an execution petition in E.P.No.26 of 1999 in O.S.No.1 of 1979 on the file of Sub Court, Pattukottai and that the respondents who are third parties to the suit have no manner of right in the suit property. It is also suggested by the learned Counsel for the petitioner that the plaintiff and the respondents 1 and 2 herein have colluded to initiate the present suit and that the petition to implead the respondents 1 and 2 ought to have been dismissed by the trial Court as they are not necessary and proper parties.

5. It is a settled position that the Court while impleading a party has to consider the question whether the proposed party is a proper and necessary party to the proceedings and whether there can be an effective adjudication of all issues that arise for consideration. In the process, the Court also will see that the scope of suit is not enlarged so as to adjudicate any other issue that does not arise for consideration or relevant, as per the pleadings of the parties to the suit.



6.It is to be noted in this case that the proposed parties namely the respondents 1 and 2 herein are purchasers of a property from the purchasers of the property from the plaintiff. Hence, the persons who have derived their right under the plaintiff can always claim right as it was available to the plaintiff. The suit was instituted only in 2011. Whereas the two documents of properties had been conveyed even before the filing of the suit. It is true that the *bona fides* of respondents 1 and 2 who claim under the plaintiff to implead them as defendants has to be seen. It is open to the defendants to non-suit the plaintiff based on the claim of respondents 1 and 2. Impleading respondents 1 and 2 does not affect the rights of revision petitioner. In these circumstances, this Court do not find any material irregularity or illegality in the order passed by learned District Munsif in allowing the petition to implead respondents 1 and 2 as parties to the suit. In view of the above, the Civil Revision Petition is liable to be dismissed. Hence, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar(CS)

SRM

To

The District Munsif,
Pattukottai.

+1CC to Mr.S.DEENADHAYALAN, Advocate, SR.No.48205

C.R.P (PD) (MD) No.1123 of 2013
18.02.2019

ES/DS/04.06.2019/3P/3C