

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.626 of 2018
in
C.M.P.No.3278 of 2018

Malar

...Petitioner

Vs.

1.Govindasamy
2.G.Rajesh
3.G.Santhi
4.G.Ponnammal
5.Santhi
6.Minor Chennammal,

...Respondents

D/o.Late Govindaraj,
(Minor respondent represented
by next friend/guardian, mother
5th respondent Santhi)

Prayer: Civil Revision Petition filed under Article 227 of Indian Constitution, against the fair and decreetal order dated 23.11.2016 made in I.A.No.840 of 2013 in I.A.No.28 of 2013 in O.S.No.866 of 2011 on the file of the learned Principal District Munsif Court, Chengam, Thiruvannamalai District.

For Petitioner : Mr.C.Prabakaran

For Respondents : No appearance

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O R D E R

This Civil Revision Petition has been filed against the fair and decreetal order dated 23.11.2016 made in I.A.No.840 of 2013 in I.A.No.28 of 2013 in O.S.No.866 of 2011 on the file of the learned Principal District Munsif Court, Chengam, Thiruvannamalai District.

2. The petitioner, who sought impleading herself in the final decree proceedings in a partition suit setting up title to the entire property, aggrieved by the dismissal of the said application has come up with this Civil Revision Petition.

3. The suit in O.S.No.866 of 2011 was laid by the respondents 5 and 6 seeking partition and separate possession of their 8/27th share in the suit properties. The suit came to be decreed exparte on 30.07.2012. During the pendency of the suit, the defendants sold the property to the petitioner herein, according to the petitioner, suppressing the pendency of the suit. The plaintiffs namely respondents 5 and 6 herein filed an application in I.A.No.28 of 2013 seeking final decree. The petitioner, as stated above, sought for impleading herself in the final decree proceedings.

4. The trial Court upon a consideration of the law relating to impleading of the parties in the final decree proceedings concluded that the petitioner who sets up an independent title cannot seek to implead herself in final decree proceedings without questioning the preliminary decree. The trial Court also took notice of the dismissal of a suit in O.S.No.166 of 2012 filed by the petitioner seeking declaration of her title. It was also held that a pendente lite purchaser cannot seek impleading in the final decree proceedings. On the above conclusion, the learned trial Judge dismissed the application, aggrieved, the petitioner has come up with this Civil Revision Petition.

5. Heard, Mr.C.Prabakaran, learned counsel appearing for the petitioner.

6. Mr.C.Prabakaran, would contend that the vendors of the petitioner suppressed the pendency of the suit and sold the property to her and therefore, she is entitled to be heard in the final decree proceedings. The petitioner has not questioned the preliminary decree and the suit filed by her seeking declaration of her title has also been dismissed by the trial Court. Though the said dismissal was for default, no steps have been taken for restoration of the said suit. The preliminary decree has now become final and only final decree proceedings are pending. The petitioner who claims title to the property cannot seek impleading in the final decree proceedings, more so, based on the purchase made pending the suit. The petitioner, therefore, is neither a necessary nor a proper party to the final decree proceedings.

7. In view of the above, I do not find any illegality or irregularity in the order of the trial Court dismissing the application. Hence, this Civil Revision Petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

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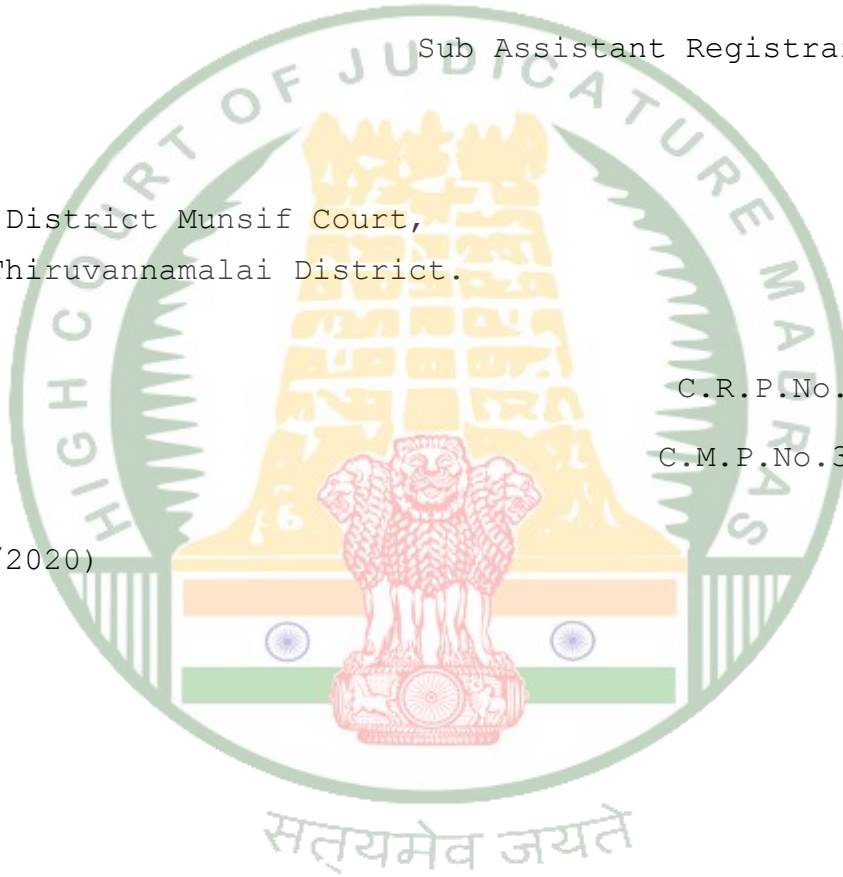
Sub Assistant Registrar
dna

To:

Principal District Munsif Court,
Chengam, Thiruvannamalai District.

C.R.P.No.626 of 2018
in
C.M.P.No.3278 of 2018

VS (CO)
GMY (09/09/2020)



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