

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.3909 of 2014

and

MP.No.1 of 2014

1.U.Maruthamuthu

2.M.Ayyavu

... Petitioners

Versus

1.P.Arul

2.M/s.G.R.Real Estates

Rep.by its proprietor

G.Ramachandran

Having Office at

No.109, Poonamallee High Road,

Velappanchavadi,

Chennai - 600 007.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the suit in O.S.No.122 of 2014, from the file of the III- Additional District Judge Court, Thiruvallur at Poonamallee.

For petitioners : Mr.P.Valliappan
For Respondents : No Appearance

ORDER

This Civil Revision Petition has been filed seeking to strike off the suit in O.S.No.122 of 2014, from the file of the III- Additional District Judge Court, Thiruvallur at Poonamallee.

2.The petitioners herein are defendants 2 and 3 in O.S.No.122 of 2014. The facts leading to the filing of the above Civil revision petition are as under:-

(i) The suit property referred to in all the three suits in O.S.No.128 of 2007, and O.S.Nos.111 & 122 of 2014 on the file of their respective Courts, belonged to one GR Real Estates, who is the first defendant in O.S.No.122 of 2014.

(ii) Based upon an agreement dated 01.12.1999, Maruthamuthu/petitioner herein filed O.S.No.128 of 2007 before the Sub-Court, Poonamallee against the G.R. Real estates, for specific performance of suit sale agreement on 01.12.1999. After contest, the suit was decreed and the execution proceedings filed before the Sub-Court, Poonamallee to execute the sale deed was also allowed and a sale deed was registered on 20.01.2012. Subsequently, the said Marthamuthu executed a settlement deed on 30.03.2012 in favour of one Ayyavu.

(iii) Thereafter, one Balamani, claiming title over the suit property from the G.R. Real estates filed O.S.No.204 of 2012. In the said suit the petitioners herein filed an application in I.A.No.899 of 2012 to reject the plaint and that the plaint was rejected on

04.12.2012 by the Additional District Munsif Court, Poonamallee.

(iv) From the records, it is seen that Balamani filed the suit O.S.No.111 of 2004 before the Principal District Munsif Court, Poonamallee for declaration to declare the sale deed 20.01.2012, which was executed in favour of the second defendant therein / Maruthamuthu/first petitioner herein by the Sub Court Poonamallee, in respect of the suit property, and to declare the settlement deed dated 30.03.2012, which was executed by the first petitioner herein in favour of the first defendant/Ayyavu/ second petitioner herein as null and void.

(v) Pending trial in O.S.No.111 of 2014, the first defendant/Ayyavu filed an application, for rejection of plaint on the ground that the sale deed was executed by the Sub Court, Poonamallee, in pursuance of specific performance decree obtained against the vendor of one Balamani/plaintiff. The said I.A.No.473 of 2014 was allowed against the plaintiff in O.S.No.111 of 2014 by rejecting the plaint, against which no appeal has been filed by her, accordingly the order passed in I.A.No.473 of 2014 rejecting the plaint in O.S.No.111 of 2014 has attained finality.

(vi) After lapse of one month, one Arul filed a suit in O.S.No.122 of 2014 before the III Assistant District Judge Court,

Thiruvallur at Ponnammallee, seeking (a) for declaration of plaintiff's title to the suit property; (b) for consequential relief recovery of possession of the suit property after demolishing the illegal construction; (c) to declare that the decree and judgment dated 07.09.2010 passed in O.S.No.128 of 2007 on the file of the Sub-Court, Ponnammallee as null and void; (d) to declare that the sale deed 19.01.2012 executed by the Subordinate Judge, Ponnammallee on behalf of the first defendant/ M/s.GR Real Estates in favour of the second defendant/Maruthamuthu as null and void (e) to declare the settlement deed dated 30.03.2012 executed by the second defendant/Maruthamuthu in favour of third defendant/Ayyavu as null and void (f) to direct the said defendant 2 and 3 to pay a sum of Rs.5,000/- per month from the date of using and occupying the suit property.

(vii) The learned counsel for the revision petitioners would contend that in view of the order passed in I.A.No.473 of 2014 dated 04.04.2014, which had attained finality, the suit in O.S.No.122 of 2014 filed by the first respondent herein/P.Arul, against the very same petitioners with regard to the very same property and on the same cause of action amounts to abuse of process of the Court and therefore this Court should strike off the suit filed by the first respondent/P.Arul by exercising the power of Article 227 of the

Constitution of India, in the light of the decisions in the case of ***N.Babu Vs. S.Shanmugam and others*** reported in **2013 1 CTC 180**; in the case of ***Lakshmi and others Vs. Prasanna Mani and others*** reported in **2011 MWN (Civil) 363**; in the case of ***Kairunnisa Begum and others Vs. B.N.Sreedhara Murthy and others*** reported in **2013(3) MWN (Civil) 717**; in the case of ***A.Valliammai Vs. Karuppaya and others*** reported in **2017(2) CTC 531**.

3.Heard the learned counsel for the petitioner and perused the records available on record. None appeared on behalf of the respondents.

4.On considering the evidence on record and also taking note of the fact that the earlier order passed in I.A.No.473 of 2014 dated 04.04.2014 had attained finality, whereby, the suit in O.S.No.111 of 2014 filed by one Balamani, who is the vendor of the plaintiff, who has preferred the suit as against the present petitioners, and the same was already allowed and the plaint was struck off. Hence, the present suit in O.S.No.122 of 2014 was filed by one Mr.P.Arul before the III-Additional District Judge, Thiruvallur at Poonamalee is nothing but abuse of process of the Court.

5.Earlier, the learned Principal District Munsif Court, Poonamallee struck off the suit in O.S.No.111 of 2014 and rejected the plaint. Hence, the purchaser cannot maintain another suit for the very same relief. Hence, this is abuse process of the Court and the principle of re-litigation is applicable as mentioned in the above cited decisions, bars the subsequent suit.

6.Thus, the Civil Revision Petition is allowed and the suit in O.S.No.122 of 2014 filed by the present first respondent, which is pending on the file of the III- Additional District Judge, Thiruvallur at Poonamallee shall stand struck off. The Principal District Judge, Poonamallee is required to give report after striking off the plaint in the Suit Registers for due compliance of this order. No Costs. Consequently, the connected miscellaneous petition is closed.

03.01.2020

Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order

klt

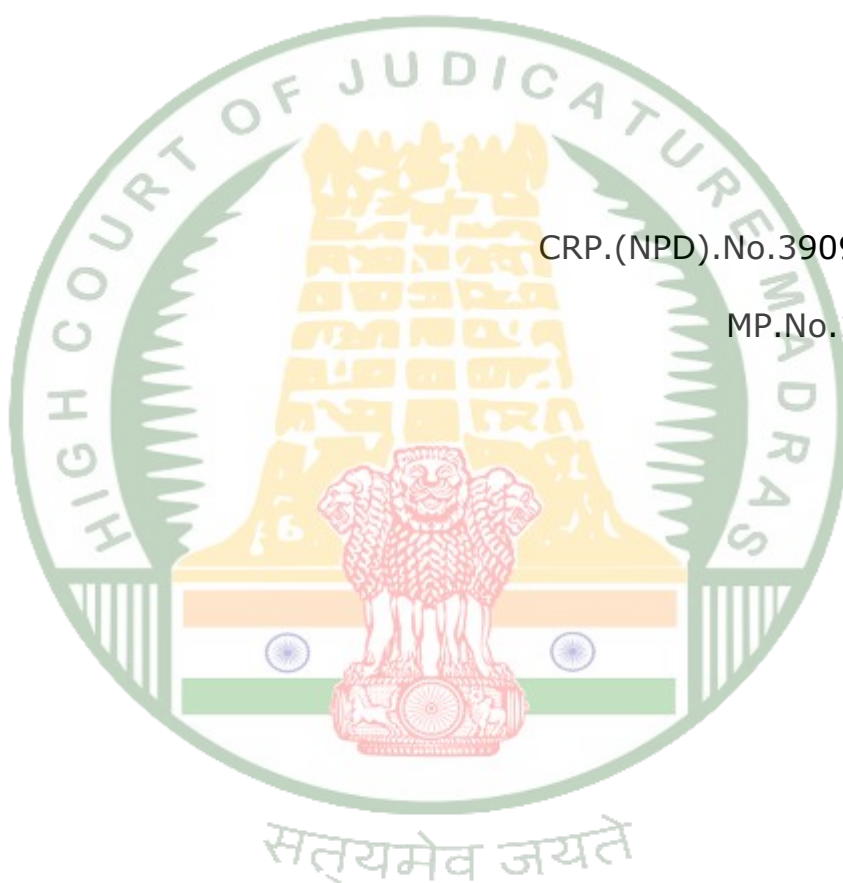
To

The III- Additional District Judge Court,
Thiruvallur at Poonamallee.

CRP.(NPD).No.3909 of 2014

RMT.TEEKAA RAMAN,J.,

klt



CRP.(NPD).No.3909 of 2014
and
MP.No.1 of 2014

03.01.2020

WEB COPY