

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No. 3963 of 2018
and
C.M.P.No.21954 of 2018

1. Rani

2. Perumal

3. Palani

4. Tamilarasi

5. Tamilarasan

6. Tamilselvi

...Petitioners

-Vs-

1. Iyyadurai

... 1st Respondent/Plaintiff

2. Alamelu

3. Minor Karthikeyan

4. Minor Nivedha

Minors R3 and R4 are represented
by the respondent-2 Alamelu

5. Saraswathi

... Respondents 2 to 5/Defendants 1 to 4

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 19.07.2018 passed in I.A.No.139 of 2018 in O.S.No.218 of 2015 on the file of the Additional District Munsif Court, Tirupattur, Vellore District.

For Petitioners: Mr.R.Jayaprakash

For Respondents: Mr.S.Udhaya kumar for
M/s.Karan and Uday (for R1)

O R D E R

The petitioners whose application for impleading themselves in O.S.No.218 of 2015 was dismissed by the trial Court have come up with this revision, challenging the said dismissal.

2. The suit in O.S.No.218 of 2015 has been filed by the 1st respondent against respondents 2 to 5 seeking specific performance of an agreement of sale said to have been entered into between him and one Soundharrajan represented by the 5th defendant as his power agent on 30.09.2013.

3. The suit is pending and it is being resisted by the defendants 1 to 4. Pending the said suit, the petitioners claiming certain title over the suit properties, sought for impleading them in the suit.

4. This application was resisted by the plaintiffs in the suit contending that these proposed parties are not parties to the agreement and therefore, they are not necessary parties or proper parties to the suit for specific performance.

5. Upon consideration of the evidence on record, the trial Court dismissed the application. Aggrieved, the petitioners have come up with this revision.

6. I have heard Mr.R.Jayaprakash, learned counsel appearing for the petitioners and Mr.Udhayakumar, learned counsel appearing for respondents.

7. The law on the question of impleading parties in a specific performance of the suit has been settled by a three Judge bench of the Honourable Supreme Court in Kasturi vs. Iyyamperumal & Ors reported in 2005 (6) SCC 733 where in the Honourable Supreme Court has pointed out that a person claiming a rival title to the parties in a suit for specific performance or a person who is not a party to the agreement cannot be made party to the suit for specific performance. The suit for specific performance cannot be enlarged into a suit for title and question of title cannot be decided for the suit for specific performance.

8. Mr.R.Jayaprakash, learned counsel appearing for the petitioners would contend that a suit for partition has also been filed and the same is also pending. It is for the petitioners to work out their remedy in the partition suit and they cannot seek impleading in this suit.

9. For the forgoing reasons, I do not see any illegality or

material irregularity in the order of the trial Court. Hence, this Civil Revision fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vum

To

The Additional District Munsif Court,
Tirupattur, Vellore District.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

C.R.P.No. 3963 of 2018
and
C.M.P.No.21954 of 2018

SV(CO)
GN(28/10/2020)