



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : **14.08.2020**

CORAM

THE HONOURABLE MR. JUSTICE **P.RAJAMANICKAM**

C.R.P. (PD) (MD)No.1969 of 2014

and

M.P(MD)No.1 of 2014

Vaithiyalingam

... Revision Petitioner

Vs.

1.Duraiaraj Nadar

2.Murugan

3.Vijayaraja

4.Rajasekar

5.Ponnusamy@RamasamyNadar

... Respondents

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and Final order, dated 01.07.2014 made in I.A.No.102 of 2014 in O.S.No.307 of 2010 on the file of the Additional District Munsif Court, Sankarankoil.

For Petitioner : Mr.S.Kadarkarai

For Respondents : No Appearance

O R D E R

This Civil Revision Petition has been filed by the petitioner/proposed 2nd respondent against the dismissal of I.A.No.102 of 2014 in O.S.No.307 of 2010 on the file of the Additional District Munsif, Sankarankoil, by the order dated 01.07.2014.

2.The petitioner herein has filed an application in I.A.No.102 of 2014 in O.S.No.307 of 2010 on the file of the Additional District Munsif, Sankarankoil, under Order 1 Rule 10 (2) of Civil Procedure Code r/w Section 151 of Civil Procedure Code to implead himself as second defendant in the aforesaid suit. The learned District Munsif, by the order, dated 01.07.2014 has dismissed the said petition. Aggrieved by the same, the petitioner has filed the present Civil Revision Petition.

3.Though notice was served on the respondents and their names also printed in the cause list, they have not appeared either in person or through counsel. Hence, after hearing the arguments of the learned counsel for the petitioner and perusing the materials



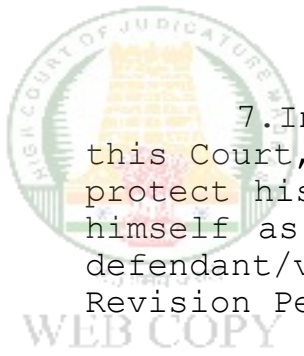
filed along with the Civil Revision Petition, order is being passed in this Civil Revision Petition.

4.The learned counsel for the petitioner has submitted that the respondents 1 to 4/plaintiffs have filed the suit in O.S.No.307 of 2010 on the file of the learned Additional District Munsiff, Sankarankovil for the relief of declaration and permanent injunction and during the pendency of the said suit, the petitioner herein has purchased the suit property from the defendant therein and hence, the petitioner has filed I.A.No.102 of 2014 to implead himself as second defendant. He further submitted that since the original defendant has sold the property to the petitioner, he may not show any interest to contest the case and hence, it has become necessary for the petitioner to file the petition to implead himself as a second defendant. He further submitted that there is no bar either under Section 52 of Transfer of Property Act, 1882 or under any other provisions of law for alienating the property during pendency of the suit, but the trial Court has erroneously dismissed the petition and therefore, he prayed to set aside the order passed by the trial Court and allow this Civil Revision Petition and to permit the petitioner to implead himself as second defendant in the aforesaid suit.

5.The learned counsel for the petitioner in support of his contentions, relied upon the decision in **V.L.Dhandapani and Others Vs. Revathy Ramachandran and Others** reported in **2014 [4] CTC 814**.

6.In the aforesaid decision a Division Bench of this Court after referring to the decision of the Hon'ble Supreme Court in **Thomson Press (India) Ltd. Vs. Nanak Builders and Investors Private Ltd. and Others, 2013 (2) CTC 104 (SC) : 2013 (5) SCC 397** has held in paragraph No.13 as follows:

''13. Considering the scope of Section 52 of the Transfer of Property Act, 1882, after considering all the earlier judgments, it has been held that Doctrine of lis pendens does not indeed annul the conveyance or the transfer otherwise, but merely makes it subservient to the rights of the parties to a litigation. Section 52 of the Transfer of Property Act, 1882, does not render transfers affected during the pendency of the Suit as void and a mere pendency of the Suit does not prevent one of the parties from dealing with the property constitute in the subject matter of the suit. On the contrary, it only postulates a condition that the alienation will in no manner affects the rights of the other party to the suit.''



7. In view of the aforesaid decision of the Division Bench of this Court, the petitioner being a subsequent purchaser, in order to protect his interest, he is entitled to file a petition to implead himself as a defendant by stepping into the shoes of the original defendant/vendor. Hence, this Court is inclined to allow this Civil Revision Petition.

8. In the result, the Civil Revision Petition is allowed. The order passed by the learned Additional District Munsif, Sankarankoil in I.A.No.102 of 2014 in O.S.No.307 of 2010, dated 01.07.2014 is set aside and that the said Interlocutory Application is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (LA&M)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsd

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Additional District Munsif ,
Sankarankoil.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2)

C.R.P. (PD) (MD)No.1969 of 2014

and

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CS (01.09.2020) 3P 4C