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C.R.P. (MD) Nos. 1605 and 2505 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2020

CORAM

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

C.R.P. (MD) Nos. 1605 and 2505 of 2017

and

C.M.P. (MD) No. 9084 of 2017

C.R.P. (MD) No. 1605 of 2017:-

1. Sambavika Educational Trust, Sivagangai,
represented by its Member and
Sambavika Higher Secondary School,
A.M. Sekar, Sivagangai.

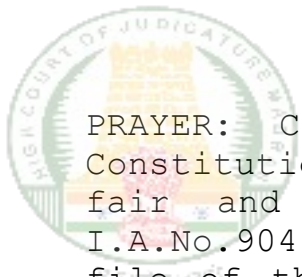
2. Sambavika Educational Trust,
represented by its Member,
S. Rani, Sivagangai.

: Petitioners

.. Vs ..

1. V. Sekar
Velu Servai (Died)
Manian @ Subramanian (Died)
Soman Servai (Died)
2. Dinakaran
3. Soundarapandian
4. Krishnan
Rathinam (Died)
5. Jegadeesan
6. Marikkannu
Sundarammal (Died)
7. Mathavan
8. Karuppiyah
9. Sutharsanan
10. Angammal
11. Vasu
12. Ravikumar
13. Baskaran
14. Eshwari
15. Mallu

: Respondents



PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the fair and decreetal order passed in I.A.No.290 of 2016 in I.A.No.904 of 2012 in O.S.No.53 of 1999, dated 14.02.2017 on the file of the District Munsif Court, Sivagangai and set aside the same.

For Petitioners : Mr.N.Ilango
For R1 : Mrs.S.Vijayakumari Natarajan
For R2 to R15 : No Appearance

C.R.P. (MD) No. 2505 of 2017:-

1. Sambavika Educational Trust, Sivagangai,
represented by its Secretary,
S.Rani
2. Sambavika Higher Secondary School, Sivagangai
represented by its Secretary,
A.M.Sekar, Sivagangai. : Petitioners/Plaintiffs

.. Vs ..

1. V.Sekar
2. Dinakaran
3. Soundarapandian
4. Krishnan
5. Jegadeesan
6. Marikkannu
7. Mathavan
8. Karuppiah
9. Sutharsanan
10. Angammal
11. Vasu
12. Ravikumar
13. Baskaran
14. Eshwari
15. Mallu : Respondents/ Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the learned District Munsif, Sivagangai, to take the original suit (unnumbered) filed by the revision petitioners, dated 15.11.2017 and assign number, dispose of the suit in accordance with law.



For Petitioners : Mr. N. Ilango
For R1 : Mrs. S. Vijayakumari Natarajan
For R2 to R15 : No Appearance

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COMMON ORDER

C.R.P. (MD) No. 1605 of 2017 is directed against the order passed by the learned District Munsif, Sivagangai, dismissing the petition filed by the petitioners in I.A. No. 290 of 2016 in I.A. No. 904 of 2012 in O.S. No. 53 of 1999, dated 14.02.2017. I.A. No. 290 of 2016 was filed by the revision petitioners to implead them as party to the final decree proceedings.

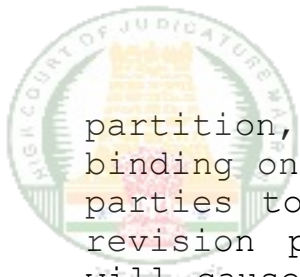
2. C.R.P. (MD) No. 2505 of 2017 is also filed by the revision petitioners in C.R.P. (MD) No. 1605 of 2017 to direct the learned District Munsif, Sivagangai, to take up the unnumbered suit filed by the revision petitioners on 15.11.2017 by assigning number and dispose of the suit in accordance with law.

3. These Civil Revision Petitions are inter connected. It appears that the revision petitioners have purchased certain properties from one of the defendants in the suit for partition in O.S. No. 53 of 1999, which was filed by one, V. Sekar, as plaintiff. In the said suit, a preliminary decree was passed and a final decree application was also preferred. The revision petitioners claim right only under one of the parties to the partition suit, who had earlier sold the property to another person, from whom the revision petitioners have purchased the property.

4. Sum and substance, the contention of the revision petitioners is that they are necessary and proper parties to the final decree proceedings, as they have established a School in the property, which is also a subject matter of the partition suit.

5. *Prima facie*, this Court is of the view that the suit property had been purchased by the vendors of revision petitioners during the pendency of the proceedings and the alienation in favour of petitioners is also hit by *lis pendens*. Be that as it may, now it is admitted that a final decree was also passed on 31.07.2017. In such circumstances, the revision petition in C.R.P. (MD) No. 1605 of 2017 has become infructuous, inasmuch as, the final decree itself has been passed.

6. As regards C.R.P. (MD) No. 2505 of 2017, the revision petitioners, being purchasers *pendente lite*, cannot maintain an independent suit challenging the preliminary decree and final decree passed in a suit for partition. Though the petitioners



partition, the sale deed in favour of the petitioners is not binding on the plaintiff in the suit or other sharers, who are not parties to the sale deed. In such circumstances, permitting the revision petitioners to file an independent suit at this stage will cause serious prejudice and hardship to the plaintiff in the suit and other co-owners.

7. Hence, both Civil Revision Petitions are dismissed. However, liberty is given to the revision petitioners to file an appeal as against the final decree. This liberty is required, because, sale deed in favour of the revision petitioners will be binding on at least one or some of the co-owners, who are entitled to deal with his or their share and the petitioners' right is protected to claim at least the share, that may be allotted to their vendors. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar (CS)

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To

The District Munsif, Sivagangai.

C.R.P. (PD) (MD) Nos. 1605 and 2505 of 2017
14.07.2020

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