



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD) No.2164 of 2017

and

C.M.P. (MD) No.10655 of 2017 and 3398 of 2020

Thamayanthi Ammal ... Petitioner/Petitioner/Plaintiff

vs.

1.Thanapackiam
2.V.Jothibasu
3.V.Vijayakumar
4.V.Jeevanantham
5.Kaleeswari ... Respondents Nos.1 to 5/Respondents Nos.1 to 5
/Defendants 1 to 5

6.The Manager
Indian Overseas Bank
Chokkanathanputhur
Rajapalayam Taluk ... 6th Respondent/Respondent
/Proposed 6th Defendant

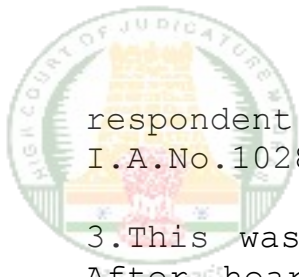
PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 21.03.2017 made in I.A.No.1028 of 2016 in O.S.No.72 of 2013 on the file of the Additional District Munsif Court, Srivilliputhur.

For Petitioner	: Mr.P.Athimoolapandian
For R1 to R4	: Mr.G.Anbusaravanan
For R5	: Mr.K.Sudalaiyandi
For R6	: Mr.N.Dilip Kumar

ORDER

The plaintiff has laid a suit for bare injunction on the ground that he has prescribed title to the suit property based on adverse possession.

2. There are five defendants arrayed in the suit, of whom only the fifth defendant contested the matter. During the pendency of the suit, the fifth defendant has mortgaged the property with the sixth



respondent in this Civil Revision Petition. Therefore, he filed I.A.No.1028 of 2016 to implead the sixth respondent.

3.This was resisted by the Bank that it was not necessary party. After hearing the same, the trial Court has dismissed the said application.

4.Heard both sides.

5.In a suit for injunction based on the title by adverse possession, a mortgagee, inasmuch as it is interested in the property concerned may have to be in the party array as there is every likelihood that the plaintiff's title to the property may have to be decided at least incidentally while considering to grant if he deserves a decree for injunction.

6.This Court is inclined to allow this petition. The sixth respondent is directed to be impleaded as sixth defendant. The trial Court may carry out necessary amendment in the plaint.

7.Since the matter is pending since 2013, the trial Court is required to dispose of the suit within a period of four months from the date of receipt of a copy of this order subject however to such regulations which this Court issued from time to time on the administrative side as to the holding of the regular Court in view of the pandemic situation now prevailing.

8.In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa/CM

To

1.The Additional District Munsif, Srivilliputhur.

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-19211[F] dated 06/10/2020)

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DKS (CO)

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