



CRP.PD.No.929/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.12.2021

CORAM

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

CRP.PD.No.929/2019 & CMP.No.6058/2019

Dhamodharan .. Petitioner

Versus

1.Dhayanithi
2.Geetha .. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 06.09.2018 passed in IA.No.4/2018 in AS.No.19/2015 on the file of the learned Additional District Judge, [Fast Track Court], Villupuram, seeking to set aside the same.

For Petitioner	:	Mr.S.Seenuvasan
For R1	:	Mr.R.Rajarajan
For R2	:	No appearance



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ORDER

- (1) This Civil Revision Petition is directed against the order dated 06.09.2018 passed in IA.No.4/2018 in AS.No.19/2015 by the learned Additional District Judge, Fast Track Court, Villupuram.
- (2) The revision petitioner is the respondent in AS.No.19/2015. He, as plaintiff, filed a suit in OS.No.59/2008 on the file of the Court of Principal Sub Judge, Dindivanam, for declaration of title and for permanent injunction.
- (3) During the pendency of the suit, it is admitted that the 1st respondent herein has purchased the property which is the subject matter of the suit. On coming to know about the purchase in favour of the 1st respondent herein, the revision petitioner, who is the plaintiff in the suit, filed an Interlocutory Application in IA.No.574/2009 under Order 1 Rule 10 CPC to implead the purchaser, viz., the 1st respondent herein.
- (4) It is to be noted that the said application was seriously contested by the defendants in the suit as well as by the 1st respondent herein. It is stated that they are aware of the legal implication of



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the transfer of property pending *lis*. It is admitted by the 1st respondent/purchaser that he is bound by the decree and that she is not going to claim any equity in case the suit is decided against her. Based on the contentions of the respondents, the said Interlocutory Application filed by the revision petitioner/plaintiff under Order 1 Rule 10 CPC was dismissed.

- (5) The suit was decreed vide judgment and decree dated 23.03.2015. Aggrieved by the said judgment and decree passed in OS.No.59/2008, the 2nd respondent who is the defendant in the suit, preferred an Appeal Suit in AS.No.19/2015 and pending appeal, the 1st respondent filed an application in IA.No.4/2018 under Order 22 Rule 10 CPC to implead herself as a co-appellant in the Appeal Suit. The said application was contested by the revision petitioner/plaintiff by citing the earlier order passed by the Trial Court in IA.No.574/2009, dismissing the application filed by the revision petitioner/plaintiff himself to implead the 1st respondent herein in the suit on the objections raised by the purchaser/1st respondent herein.



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- (6) The Court below, however allowed the application holding that the purchaser/1st respondent herein is a person who is entitle to come on record as a person on whom the interest in the litigation is devolved. The First Appellate Court held that dismissal of the earlier application will not operate as *res judicata*. This Court is of the view that the order of the Trial Court in dismissing the application filed by the revision petitioner/plaintiff to implead the 1st respondent herein is illegal and contrary to the well settled principles. Even before the Trial Court, the 1st respondent/purchaser ought to have been made as a party either under Order 1 Rule 10 CPC or under Order 22 Rule 10 CPC.
- (7) It is unfortunate to note that the 1st respondent/purchaser herself raised an objection when the revision petitioner/plaintiff made an attempt to get the 1st respondent/purchaser impleaded in the suit itself. By raising an objection before the Trial Court in the petition filed by the plaintiff/revision petitioner, the 1st respondent/purchaser has caused inconvenience and embarrassment to the revision petitioner/plaintiff who has now filed the Civil Revision Petition. However, the law is settled that



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purchaser pending *lis*, is entitled to come on record under Order 22 Rule 10 CPC at any stage of the proceedings.

- (8) Even though the application filed earlier at the instance of the revision petitioner/plaintiff was dismissed, this Court cannot deal with the subsequent application filed at the appellate stage on the basis of an illegal order which was passed at the trial stage. However, this Court while disposing of this Civil Revision Petition is inclined to compensate the revision petitioner/plaintiff by directing the 1st respondent/purchaser to pay a sum of Rs.10,000/- as cost for her irresponsible, inconsistent and untenable stand taken when the revision petitioner/plaintiff filed an Interlocutory Application at the earliest stage.
- (9) In the result, the Civil Revision Petition is **dismissed** confirming the order dated 06.09.2018 passed in IA.No.4/2018 in AS.No.19/2015 by the learned Additional District Judge, Fast Track Court, Villupuram. However, the 1st respondent/purchaser is directed to pay a sum of Rs.10,000/- [Rupees Ten Thousand only] to the revision petitioner/plaintiff as cost for taking an unreasonable stand taken by her earlier in IA.No.574/2009 and



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subsequently filing an application in IA.No.4/2018 at the belated stage causing much inconvenience to the revision petitioner/plaintiff. The cost shall be paid either to the counsel for plaintiff or to the plaintiff within a period of eight weeks from the date of receipt of a copy of this order.

- (10) The Lower Appellate Court is directed to dispose of AS.No.19/2015 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

01.12.2021

AP

Internet : Yes

To

The Additional District Judge, Fast Track Court,
Villupuram.



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S.S.SUNDAR, J.,

AP

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