

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP (NPD) No.1213 of 2016
and CMP No.6612 of 2016

R.Kannagi

.... Petitioner

Vs

1.K.Nagammal
2.S.Lakshmi
3.D.Dhanabakiyam

.... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 10.07.2015 made in I.A.No.142 of 2014 in A.S.No.55 of 2012 on the file of the Subordinate Court, Tambaram.

For Petitioner : Mr.S.Saravanan

For Respondents : No appearance

ORDER

This Civil Revision Petition is directed against the order dated 10.07.2015 made in I.A.No.142 of 2014 in A.S.No.55 of 2012 on the file of the Subordinate Court, Tambaram, thereby dismissing the petition to implead the petitioner as a party to the respondents.

2. The second and third respondents filed a suit for recovery of possession in respect of the suit property and also for permanent injunction and it was decreed by a Judgment and Decree dated 16.03.2011. Aggrieved by the same, the first respondent herein has filed an Appeal Suit. Pending Appeal Suit, the petitioner herein purchased the entire suit property. Therefore, he filed a petition to implead himself as a proposed respondent in the Appeal Suit, since the respondents 2 and 3 have no interest over the property and for proper adjudication. The petitioner may be impleaded as proposed respondent to safeguard the property purchased by him.

3. The Court below dismissed the petition only on the ground that the petitioner neither had obtained prior permission from the Court nor she had acted bonafide by giving notice to the respondent about her purchase of the suit property. Hence, the petitioner cannot be said to be a bonafide purchaser. Mere so, when the first respondent is in possession of the suit property which was clearly admitted through respondents 2 and 3. There is no quarrel over the possession of the suit property., since, the second and third respondents filed a suit itself for recovery of possession in respect of the suit property. This suit was also decreed in favour of the second and third respondent herein.

4. Admittedly, the petitioner purchased the entire suit property comprised in Survey No.51/2B1 ad-measuring 1890 sq.ft together with a tiled house at 300 sq.ft for valid sale consideration by the sale deed dated 10.09.2013 vide Document No.9454 of 2013 on the file of the Sub Registrar Office, Selaiyur. In this regard, the relevant portion of the Judgment reported in **2013 (5) SCC 397** in the case of **(Thomson Press (India) Ltd., Vs. Nanak Builders & Investors (P) Ltd.,)** which reads as follows :

“57. To sum up :

57.1. The appellant is not a bona fide purchaser and is, therefore, not protected against specific performance of the contract between the plaintiffs and the defendant owners in the suit.

57.2. The transfer in favour of the appellant pendente lite is effective in transferring title to the appellant but such title shall remain subservient to the rights of the plaintiff in the suit and subject to any direction which the Court may eventually pass therein.

57.3. Since the appellant has purchased the entire estate that forms the subject matter of the suit, the appellant is entitled to be added as a party-defendant to the suit.

57.4. The appellant shall as a result of his addition raise and pursue only such defences as were available and taken by the original defendants and none other”.

5. Accordingly, the petitioner has purchased the entire suit property and as such she is entitled to be added as a party in the Appeal Suit. In view of the above, the order dated 10.07.2015 made in I.A.No.142 of 2014 in A.S.No.55 of 2012 on the file of the Subordinate Court, Tambaram, is hereby set aside and the Civil Revision Petition stands allowed. Appeal Suit is of the year 2012. After giving opportunity to the petitioner, the Appellate Court is directed to dispose off the Appeal Suit, within a period of three months from the date of receipt of a copy of this order. No costs.

25.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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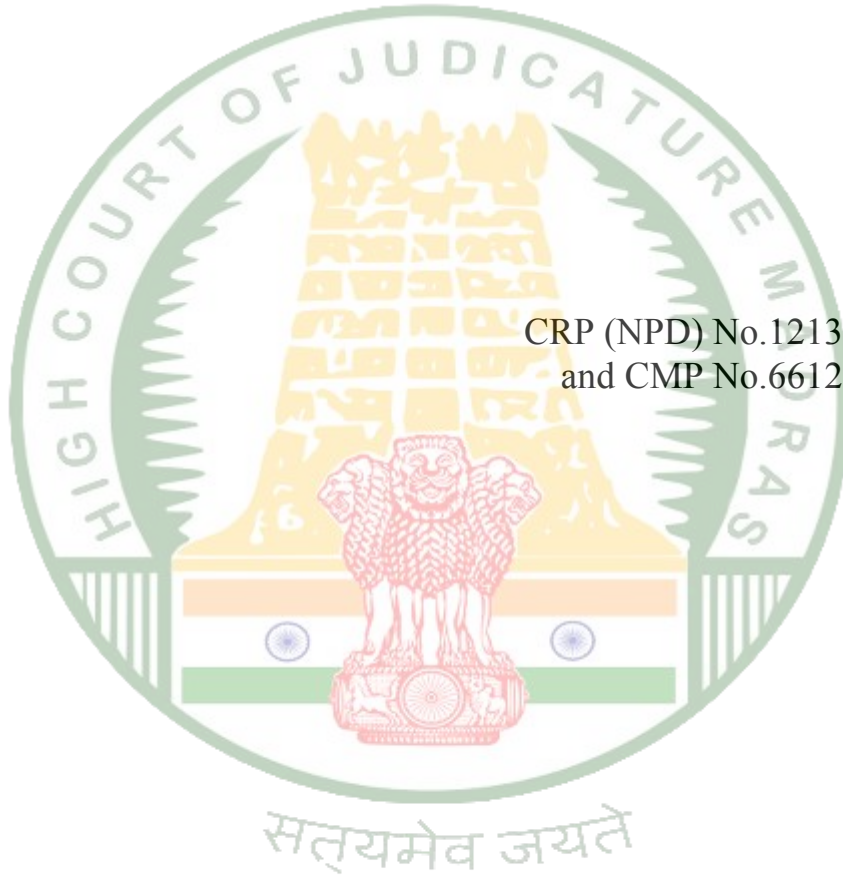
To

The Subordinate Court,
Tambaram.

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G.K.ILANTHIRAIYAN, J.

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