

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2021

CORAM

THE HON'BLE MR. JUSTICE C.V. KARTHIKEYAN

**C.R.P. (PD) No. 849 of 2021
and
C.M.P. No. 7008 of 2021**

T.Sathish Kumar

... Petitioner

-VS-

1. A.P.Prabu

2. Deepalakshmi

3. The Sub Registrar,
Dadagapatti,
Salem - 6.

... Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the order dated 06.03.2021 made in I.A. No. 3 of 2019 in O.S. No. 416 of 2018 on the file of the Learned I Additional District Munsif, Salem by allowing this Civil Revision Petition.

For Petitioner : Mrs. Vasavi Sridevi

For Respondents : Mr. D.Gopinathan (for R1 and R2)

No appearance (for R3)

ORDER

The Civil Revision Petition has been filed taking advantage of Article 227 of the Constitution of India, by the Plaintiff in O.S. No. 416 of 2018 questioning the order dated 06.03.2021 in I.A. No. 3 of 2019 in O.S. No. 416 of 2018 passed by the I Additional District Munsif Court, Salem.

2. The said interlocutory application has been filed by the Petitioner herein. The Petitioner herein in his capacity as Plaintiff had instituted the suit in O.S. No. 416 of 2018 against two Defendants seeking a judgment and decree to declare a sale deed dated 10.11.2017 registered in the Office of the Sub-Registrar, Dadagapatty, Salem in the name of the Second Defendant as null and void and also for a permanent injunction restraining the Defendants or anybody acting on their behalf from interfering with the peaceful possession of the Plaintiff and also for further injunction not to alienate or deal with the property. The said suit has been pending on the file of the I Additional District Munsif Court, Salem from the year 2018 onwards. Written Statement has also been filed. At that particular point of time, the present application in I.A. No. 3 of 2019 came to be filed by the present Petitioner seeking to implead the Sub-Registrar, Dadagapatty, Salem as the Third Defendant in the suit. This was

also objected by the Defendants by filing Counter. In the course of the Order, the Learned I Additional District Munsif Court, Salem had observed that no valid reason has been given to substantiate the necessity to implead the said Proposed Party as the third Defendant and that no relief has been sought as against the said Proposed third Defendant. Opining as above, the application was dismissed. Questioning the rationale of the said order, the present Civil Revision Petition has been filed.

3. Order I Rule 3 of the Code of Civil Procedure, 1908, gives the reasons as to who may be impleaded as Defendants and why they should be impleaded as Defendants. An obligation is placed on the Plaintiff to allege a series of transactions and thereafter, state that a cause of action exists as against those individuals who are impleaded as Defendants and therefore, the suit is filed seeking redressal and claiming the reliefs stated. Order I Rule 5 of the Code of Civil Procedure, 1908, gives an option that anybody can be impleaded as Defendants, who is interested in the suit. However, Government Officials cannot be impleaded as Defendants only to put them on notice with respect to discharge or otherwise of thier official duties.

4. In this case, a relief has been sought in the nature of permanent injunction restraining the Defendants from alienating or dealing with the suit property. Probably, the Plaintiff hopes that if the Sub-Registrar is impleaded as party, if the Defendants produce a document for registration, as a party Defendant, the Sub-Registrar would naturally refrain from registering such document.

5. A party is impleaded as a Defendant because a series of transactions are alleged against him and that a cause of action exists to seek relief against him. By impleading the Sub-Registrar, Dadagapatty, Salem, no advantage will accrue to the Plaintiff. On the other hand, the Plaintiff could be well served by summoning the Sub-Registrar as a witness and also summoning the necessary official documents to substantiate the averments in the plaint. The Sub-Registrar could be a proper witness to the suit proceedings, but not a proper party to the suit proceedings. It is also seen that no specific relief has been sought as against the Sub-Registrar either in his personal capacity or in his official capacity.

6. I would also grant liberty to the Learned Counsel for the Petitioner to address the Sub-Registrar informing him about the pendency of the suit and

further informing that if any document pertaining to the properties mentioned in the plaint is produced for registration, he may obtain leave of the Court before proceeding to register the documents or atleast put the Plaintiff on notice about such registration of documents. With respect to Life Certificate and other issues, the Plaintiff may summon the Sub-Registrar and put necessary questions to him during the course of the trial.

7. With the said observations, the Civil Revision Petition is disposed of. The presence of Mr. D.Gopinathan, Learned Counsel who has entered appearance for the First and Second Respondent is acknowledged, but the Learned Counsel was not called. No order as to costs. Consequently, the connected Miscellaneous Petition is closed.

16.04.2021

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Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order

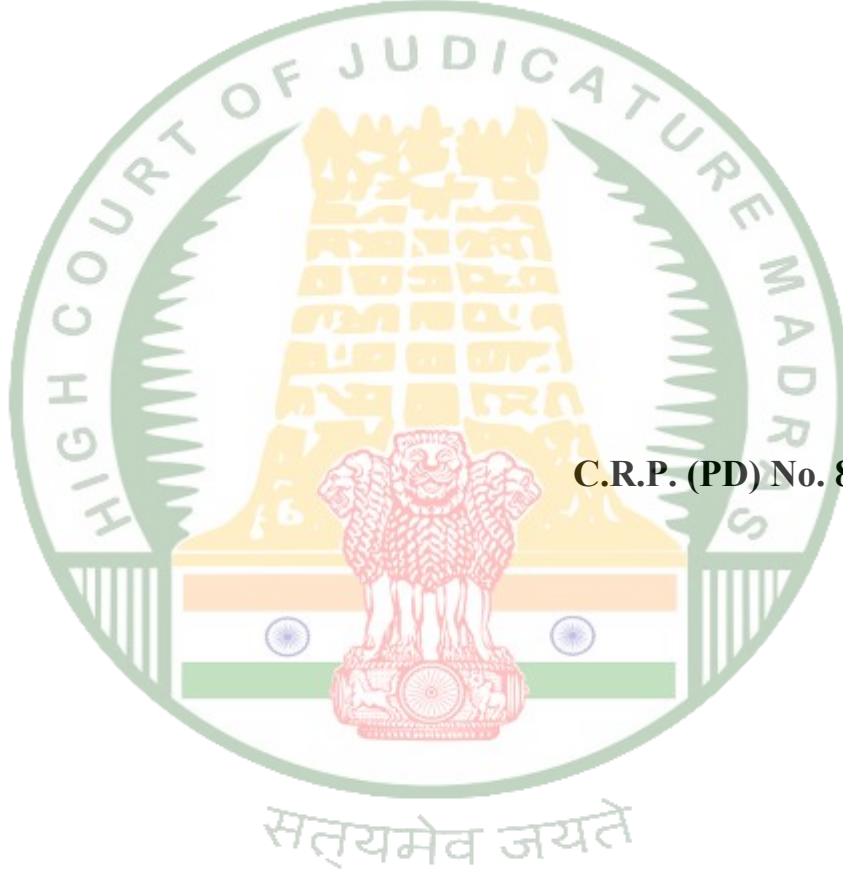
To

1. The Sub Registrar,
Dadagapatti,
Salem - 6.

C.V. KARTHIKEYAN, J.

vjt

2. The I Additional District Munsif Court,
Salem.



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