

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.10.2021

PRONOUNCED ON : 01.11.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(P.D)No.2068 of 2021 and
C.M.P.No.15726 of 2021**

Shanthi ...Petitioner

Vs.

1.Shanthi

2.Gunasekaran

3.Ilayappan

4.Murugaiyan @ Velmurugan

5.Pavayee Ammal

6.Rathinam

7.Kamaraj

8.Suresh

...Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 09.08.2021 in I.A.No.68 of 2021 in O.S.No.153 of 2009 on the file of the learned Principal Sub Judge, Kallakurichi and thereby allow the revision.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.A.E.Ravichandran for R1

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.68 of 2021 in O.S.No.153 of 2009 on the file of the learned Principal Sub Judge, Kallakurichi.

2.The learned counsel for the petitioner submitted that petitioner filed I.A.No.68 of 2021 under Order I Rule 10 C.P.C., for impleading the petitioner as eighth defendant in the suit. The reason for filing the petition is that the third defendant in the suit sold the suit property to the seventh defendant. The seventh defendant plotted it out and sold to many persons. Petitioner purchased one plot from the seventh defendant. Plaintiff filed a petition to implead the subsequent purchasers as a defendants in the suit by filing I.A.No.228 of 2016. The petitioner was 25th respondent in this petition. However, plaintiff had not pressed this petition. It appears that the plaintiff and seventh defendant are trying to get a collusive *ex-parte* decree. Unless he is impleaded as the

defendant, he cannot save his property and therefore, he filed the impleading petition. This petition was contested by the plaintiff/first respondent stating that the respondents 1 to 7 in I.A.228 of 2016 objected the impleading petition stating that the proposed defendants are not proper and necessary parties. Therefore, that petition was not pressed. Petitioner in this I.A. is the Lispendence purchaser. Petitioner is not a proper and necessary party for the disposal of this case. This petition is filed at the instigation of the seventh defendant.

3. On considering the rival submissions, the learned Principal Sub Judge, Kallakurichi dismissed the impleading petition in I.A.No.68 of 2021 in O.S.No.153 of 2009. Against the said dismissal order, this Civil Revision Petition is filed.

4.The learned counsel for the petitioner reiterated that though the petitioner is a subsequent purchaser, he is a proper and necessary party for the adjudication in this case. If he is not impleaded as a defendant in the suit, his interest in the suit would be prejudiced and he

would not be able to protect his property. It is further submitted that the first respondent/plaintiff filed a petition for impleading the subsequent purchasers in I.A.No.228 of 2016 and deliberately not pressed. Only then this petition is filed by the petitioner for impleading the petitioner/defendant.

5.Considered rival submissions and perused the records.

6.The suit was filed by the first respondent seeking the relief of partition and for other reliefs. Admittedly, the petitioner is purchaser of the plot in the suit property. Not only that there are many other purchasers, subsequent to the filing of the suit. There is no guarantee that there would be no more alienation of suit property. In that case, if we permit the impleadment of subsequent purchasers, there will be no end for impleadment of subsequent purchasers. It is a very well settled proposition of law that subsequent purchaser would get the right, that is available to the vendor not-more and not-less. A subsequent purchaser cannot set up an independent case. He or she has to tow to the case of

vendor.

7. Learned counsel for the petitioner relied on the judgments reported in ***CDJ 2015 MHC 4671 (Devaki Thiyagarajan ..vs.. Ahamed & others)*** and order in ***CRP. (PD) No. 1587 of 2018 (Ayyanar and others ..vs.. Gopu and others)*** for the proposition that the lis pendens purchaser can be impleaded as a party to a proceedings. The case concerned in ***CDJ 2015 MHC 4671 (cited supra)*** relates to the suit for declaration and recovery of possession and injunction. Plaintiffs in the suit have allegedly sold the property to 5th plaintiff. Finding that the presence of proposed fifth plaintiff is absolutely necessary for effective adjudication of the issue, 5th plaintiff was ordered to be impleaded as a party. In the case concerned in the order in ***CRP PD No.1587 of 2018 (cited supra)***, the suit was filed for the relief of partition. The pendente lite purchasers were ordered to be impleaded as parties to avoid multiplicity of proceedings.

8. In the case before hand, there are not one or two pendente

lite purchasers. There are more than 50 pendente lite purchasers. There is no guarantee that there would be no more further alienation. In the facts and circumstances of the case, this Court is of the considered view that pendente lite purchasers would have to take what is entitled for their vendors. Therefore, proposed pendente lite purchaser is not the proper and necessary party for adjudicating the issue involved in this case.

9. In this view of the matter, this Court finds there is no reason to interfere with the order dated 09.08.2021 passed by the learned Principal Sub Judge, Kallakurichi in dismissing the party impleading petition filed in I.A.No.68 of 2021 in O.S.No.153 of 2009.

10. Resultantly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

Ep/mra

01.11.2021

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

1.The Principal Sub Judge,
Kallakurichi.

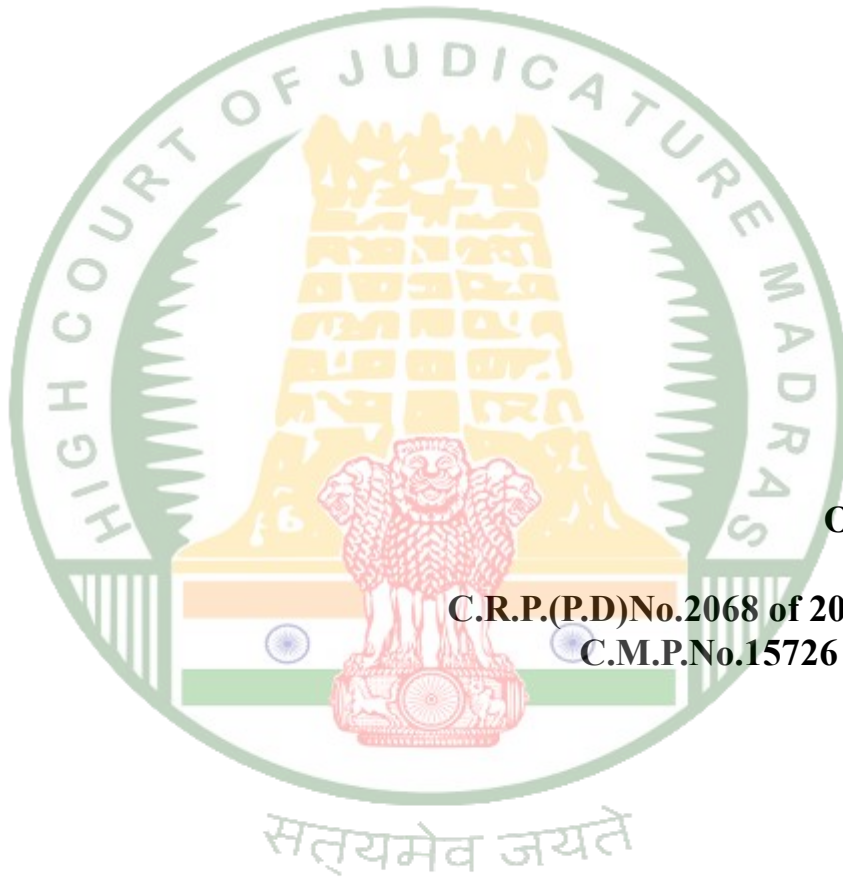
2. The Section Officer,
VR Section,
High Court of Madras.



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G.CHANDRASEKHARAN.J.

Ep/mra



Order in

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