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C.R.P(PD).No.2759 of 2021
and CMP.Nos.20119 & 20121 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD).No.2759 of 2021

and

CMP.Nos.20119 & 20121 of 2021

Dhanasekaran

..Petitioner

Vs.

- 1.Kantha
- 2.Kumudha
- 3.Perumal
- 4.Elumalai
- 5.Saraswathi
- 6.Ebher Muralidharan
- Annalammal (died)
- 7.Kiresha
- 8.Ruban
- 9.Ranjit Kumar
- 10.Jebakar
- 11.Loganathan
- 12.Jayalakshmi
- 13.Vasantha
- 14.Manoharan
- 15.Viviyan
- 16.Minor Reny
- 17.Minor Joe
- 18.Ananthi
- 19.Ramachandran
- 20.Kanakaraj



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21.Chitra
22.Subhatra
23.Lakshmi
24.Munusamy
25.Santhalingam
26.Indira
27.Arumugam
28.Srinivasan
29.Lalitha

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the docket order dated 08.09.2021 in IA.No.232 of 2020 in OS.No.82 of 2014 on the file of the District and Sessions Court No.II, Kancheepuram.

For Petitioner : Mr.B.Kumar, Senior Counsel

ORDER

A peculiar prayer has been made in this revision. The petitioner, who is the 9th defendant in the suit seeks a direction to the Trial Court, before which the suit in OS.No.82 of 2014 is pending, that it shall not proceed further without deciding the application filed by him with the following prayer :-



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“For the reasons stated in the accompanying common affidavit, the petitioner / 9th defendant herein prays that this Hon'ble Court may be pleased to take up and decide the preliminary issue first whether the suit is maintainable or bad or can be proceeded further and decided on merits without impleading the purchasers as parties actually when the interim relieves are claimed against them and in respect of their owned, possessed, developed properties etc., and suit is liable to be dismissed in limine for non-joinder of necessary parties in OS.No.82 of 2014 on the file of this Hon'ble Court and to dismiss the OS.No.82 of 2014 on the file of this Hon'ble Court render justice.”

2. I do not think such prayer could be granted. The suit is one for setting aside various sale transactions and for partition. Pending suit, an application in IA.No.232 of 2000 has been filed seeking for injunction restraining the respondents / defendants 2 to 25 from in any manner altering or developing the nature of the suit 'A' and 'B' schedule properties pending disposal of the suit. When the application for injunction came up for hearing, the petitioner has objected to the hearing of the application for injunction without deciding the issue relating to non-impleading of



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subsequent purchasers as a preliminary issue. The Trial Court, rejected the said request and posted the application for injunction for arguments. It is the correctness of this order, which is now challenged in this revision.

3.Heard Mr.B.Kumar, learned Senior Counsel appearing for the petitioner.

4.Mr.B.Kumar, learned Senior Counsel appearing for the petitioner would submit that the plaintiffs in the suit challenge a family arrangement, which took place in the year 1959. According to him, after the said family arrangement several sales have taken place and those purchasers are also necessary parties to the suit. If the injunction application is taken up without impleading those purchasers and an order is passed, it will affect the rights of the purchasers and the defendant, he being one among the alienees. This argument of the learned Senior Counsel proceeds on the assumption that the Court is going to definitely grant an injunction against the petitioner in IA.No.232 of 2020. I do not think, an argument based on such assumption can be entertained.



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5.In a suit for setting aside certain alienations and for partition, all alienees prior to the suit are necessary parties. If they have not been made parties / defendants in the suit, the petitioner can definitely take advantage of the lapse. He cannot insist upon the Court to proceed in a particular manner and stall further proceedings. Hence, I do not find any merits in this revision. This civil revision petition fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed. The Trial Court shall proceed in accordance with law without being influenced by any of the observations made herien above.

13.12.2021

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Index:No
Internet:Yes
Speaking

To:-

The District and Sessions Court – II,
Kancheepuram.

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R.SUBRAMANIAN, J.

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