



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2350 of 2021

and

C.M.P.No.17813 of 2021

1. E.Gunasekaran

2. E.Selvapathy ... Petitioners/Proposed Parties

Vs

1. The Salem Junction Co-operative Building Society Ltd.,
Rep. by its Secretary R.Vijayakumar,
No. 9, 10, Subam Complex,
Subramania Nagar,
II Gate, Junction Main Road,
Salem - 636 005.

2. Vijayaragavan Nagar Welfare Association,
Rep by its President Devadoss,
No. 11/47, Vijayaragavan Nagar,
Near Sona College,
Salem - 636 005.

3. E.Sugavanam

4. The Commissioner,
Salem Corporation,
Salem - 636 001.

... Respondents/Plintiff/Defendant

PRAYER : Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 10.03.2021 in I.A. No. 1 of 2020 in O.S. No. 719 of 2013 on the file of III Additional District Munsif, Salem and allow the Civil Revision Petition.

For Petitioners : M/s. P.Veena Suresh

O R D E R

This Petition is filed challenging the order passed in I.A. No. 1 of 2020 in O.S. No. 719 of 2013 on the file of III Additional District Munsif, Salem.



2. The Learned Counsel for the Petitioners submitted that suit in O.S. No. 719 of 2013 was filed by the First Respondent against the Second to Fourth Respondents for the relief of permanent injunction restraining them from interfering with the First Respondent's possession and enjoyment of the suit property. It is submitted by the Learned Counsel for the Petitioners that as per the patta proceedings of the Tahsildar, Salem in File No. 6.11/601/96-97(B9) dated 03.04.1997 that the First Petitioner E. Gunasekaran was given patta to an extent of 0.03.00 ares in Survey No. 276/1A2. The First Respondent was given patta in Survey No. 276/1A to an extent of 2.91.0 ares and Survey No. 276/1A1 to an extent of 2.88.1 ares. Taking advantage of the patta granted in Survey Nos. 276/1A and 276/1A1, the First Respondent has tried to claim right over the property of the Petitioners in Survey No. 276/1A2. Therefore, the Petitioners filed Petition under Order I Rule 10 of the Civil Procedure Code for impleading them as Defendants in the suit. This Petition was contested by the Respondents. The Learned III Additional District Munsif, Salem has not properly considered the prayer of the Petitioners and dismissed the Petition. Against the said dismissal, this Civil Revision Petition is preferred.

3. It is further submitted that if the Petitioners are not impleaded as Defendants, they cannot protect their right in the property. There is overlapping of properties in Survey Nos. 276/1A, 276/1A1 and 276/1A2. Hence, it is necessary that the Petitioners should be impleaded as the Defendants. Therefore, the Learned Counsel for the Petitioners prayed for setting aside the order of the Learned III Additional District Munsif, Salem and for allowing the Petition.

4. Considered the submissions of the Learned Counsel for the Petitioners and perused the record.

5. The suit in O.S. No. 719 of 2013 was filed for the relief of permanent injunction. It is claimed in the plaint that the First Respondent/Society purchased an extent of 5.70 acres on 03.03.1966. A Schedule property is the reading room and Society Office. B Schedule property is Children's play area. C Schedule property was left for widening of road for easy access of public. It is the specific case of the First Respondent that the Second and Third Respondents tried to put up illegal construction in the suit property. Therefore, the suit came to be filed. Admittedly, the suit property is situated in Survey No. 276/1A. Petitioners claim is only in Survey No. 276/1A2. There is no material filed by the Petitioners to show that they have any right in Survey No. 276/1-A. It is seen from the order of the Learned III Additional District Munsif, Salem that the Counter filed by the Fourth Respondent confirms that the suit



property belongs to the First Respondent and no one else including other Respondents can lay any claim to the suit property. It appears that the Petitioners produced only certain water tax receipts and electricity receipts. The Learned III Additional District Munsif, Salem found that these documents cannot prove the Petitioners' claim over the suit property. Based on these reasons, the Learned III Additional District Munsif, Salem dismissed the Petition. As already stated, the Petitioners had not produced any material to show that they have any right in Survey No. 276/1A which is the suit property. Therefore, Petitioners cannot claim that they are necessary parties to the suit. The Learned III Additional District Munsif, Salem has rightly dismissed the Petition. This Court finds no reason to interfere with the order of the Learned III Additional District Munsif, Salem. Hence, the order of the Learned III Additional District Munsif, Salem passed in I.A. No. 1 of 2020 in O.S. No. 719 of 2013 is confirmed.

6. Resultantly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The III Additional District Munsif Court,
Salem.

+1cc to M/s. P.Veena Suresh, Advocate, S.R.No.55694

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PL(CO)
CT 02/12/2021