



C.R.P(NPD)No.2439 of 2021
and CMP.No.18514 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(NPD)No. 2439 of 2021

and

CMP.No.18514 of 2021

1.T.T.Gnanaprabu
2.T.G.Jagadambigai

..Petitioners

Vs.

Minor Panchaiappan
Represented by his next friend and guardian
and grandmother, Alamelu Ammal

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order made in memo in CNR.No.2593 of 2021 in IA.No.152 of 2004 in OS.No.45 of 1999 dated 02.09.2021 on the file of the Principal Sub-ordinate Judge, Kancheepuram, rejecting the memo filed by the petitioners to receive documents.

For Petitioners : Mr.R.Karthikeyan

For Respondent : Mr.Duraikann.S.Phillip



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ORDER

This revision is directed against the order of the learned Trial Judge, rejecting the memo filed by the petitioners seeking to produce documents in the final decree proceedings.

2.Though the petitioners purchased a portion of the property subject matter of a partition suit on 17.02.1999, the date on which the suit itself came to be filed, they have not made parties and an exparte preliminary decree came to be passed. An application filed by the petitioners to have the exparte decree set aside was dismissed. The petitioner was impleaded in the final decree proceedings as a person in possession of the property. Pending final decree proceedings, an application in IA.No.952 of 2008 was filed by the plaintiff not to permit the defendants to let in evidence in the final decree proceedings.

3.The said application was resisted by the petitioners herein contending that they are entitled to sustain their title in the final decree proceedings. The said claim was rejected and the Court held that they



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cannot lead evidence. The order was allowed to become final. Thereafter, the petitioners filed a memo along with the list of documents seeking to produce various documents in the final decree proceedings. The said memo was rejected in view of the order passed in IA.No.952 of 2008.

4.I have heard Mr.R.Karthikeyan, learned counsel appearing for the petitioners and Mr.Duraikann S.Philip, learned counsel appearing for the respondent.

5.Mr.R.Karthikeyan, learned counsel appearing for the petitioners would contend that the petitioners would be entitled to claim equities before the Court in the final decree proceedings. To that extent, they should be allowed to place on record the documents to show that they have purchased the property and are in enjoyment of the property. No doubt, the earlier application was resisted by the petitioners claiming that they can establish title but, the dismissal of that application by itself would not prevent the petitioners from claiming equity and seeking allotment of the property purchased by them to their Vendors to the extent possible.



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6.Mr.Duraikann.S.Phillip would contend that the petitioners are trying to re-establish their title and claim exclusive title to the property. The controversy lies in a narrow campus, the petitioners had purchased a portion of the property that is subject matter of a partition suit. Strangely, the date of purchase and the date of initiation of the suit happened to be the same. The petitioners therefore, would be entitled to claim equities and allotment of the property purchased by them to the share of their Vendors so that they would be allowed to retain the property that was purchased by them. This has to be done only in the final decree proceedings. Liberty should be available to the petitioners to lead evidence to that extent of claiming equities otherwise, the very object of impleading the petitioners in the final decree proceedings would be defeated.

7.While sustaining the order of the Trial court, I make it clear that the petitioners would be allowed to produce the following documents to show that they have purchased a portion of the property, subject matter of the suit and they would be entitled to allotment of that property, in equity to



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their Vendor to the extent possible.

i) Sale agreement dated 17.12.1998.

ii) Certified copy of the sale deed dated 27.09.1982.

iii) Certified copy of the sale deed dated 27.09.1982 executed in favour of Pachaiyappan by Chellammal and others.

iv) The copy of the death certificate of Kamatchiammal

v) The copy of the legal heir certificate of Kamatchiammal.

vi) The certified copy of the sale deed dated 17.02.1999 executed in favour of the 2nd petitioner by the 7th respondent.

vii) The certified copy of the sale deed dated 11.06.1999.

8.The other documents, in my opinion, are not germane to the dispute. This civil revision petition is disposed of with the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Internet: Yes
Speaking

R.SUBRAMANIAN, J.

KKN

To:-

The Sub-ordinate Court,
Kancheepuram.

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