



CRP (PD) No.2433 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2433 of 2021
and CMP No.18480 of 2021

P.Selvam

... Petitioner

Vs

1. P.Shanmugavelu
2. P.R.N.Subramanian
3. G.Lakshmi Narayanan
- L.Lakshmi (died),
4. Kanishka
5. Subashni

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the Fair and Decreetal order dated 22.01.2021 in I.A.No.5 of 2020 in O.S.No.82 of 2014 on the file of the District Judge at Karaikal and consequently allow the I.A.No.5 of 2020 in O.S.No.82/2014.

For Petitioner : Ms.S.Janani



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ORDER

The challenge in this revision is to an order of the learned trial Judge, dismissing I.A.No.5 of 2020, an application for impleading the petitioner as party defendant to the suit in O.S.No.82 of 2014.

2. The suit in O.S.No.82 of 2014 has been filed by the 1st and 2nd respondents herein seeking specific performance of an agreement of sale said to have been entered into between them on 31.05.2011 with the respondent no.3 and his wife one late Lakshmi. The said Lakshmi who was arrayed as second defendant died, her legal heirs are impleaded as defendants 3 and 4. The said suit is pending. The petitioner came up with an application in I.A.No.5 of 2020 seeking impleading on the ground that he is occupation of the suit property as a tenant. He also claims to have spent huge amounts on developing the property and making it fit for commercial use. It is stated that he was carrying on business in vending Liquour and was running a Bar in the name of “Majestic Bar” in the premises and due to the introduction of distance regulations governing location of Liquour shops



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on Highways, he was forced to shift the business. He however continues to be in possession in the petition premises as a tenant.

3. The trial Court dismissed the application on the ground that the petitioner is not a necessary or proper party to the suit for specific performance.

4. I have heard Ms.Janani, learned counsel appearing for the petitioner.

5. The learned counsel would contend that since the petitioner has spent huge amount for development of the premises and making it fit for commercial venture, he is necessary party to the suit.

6. I am unable to subscribe to the contentions of the learned counsel. A suit for specific performance is of very limited scope and all that has to be gone into is the contractual obligation under the agreement. A person who is not a party to the agreement, even though he sets up title to the



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property, has been held to be a unnecessary party to the suit for specific performance by the Hon'ble Supreme Court in *Kasturi Vs Iyyamperumal & ors.* reported in **2005 (6) SCC 733**. I therefore, do not think that the order of the trial Court could be faulted with. The revision therefore fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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vum

Index: Yes/No

Speaking order / Non speaking order

To:

The District Judge, Karaikkal.



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R.SUBRAMANIAN, J.

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