

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.64 of 2017
and CMPNo. 370 of 2017

Pandiyan

... Petitioner

Vs.

1.Lakshmi

2.Vasantha Kumar

3.The Special District Revenue Officer,
NH-68, No.4 Isvarya Garden,
1st Street, MaravaneriPost,
Salem District.

4.The Special Tahsildar,
NH-68, Unit office 1 & 2,
Sundaravinayagar Kovil Street,
Kallakurichi, Villupuram District.

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order and decretal order dated 23.09.2016 made in I.A.No.37 of 2015 in O.S.No.2 of 2011 on the file of the III Additional District Judge, Kallakurichi,

For Petitioner

: Mr.V.Raghavachari

For R1& R2

: M/s.R.Meenal

For R3 & R4

: Mr.Devnarendran Anand

Government Advocate (Civil Side)

ORDER

This Civil Revision Petition has been filed against the order dated 23.09.2016 passed by the III Additional District Judge, Kallakurichi in I.A.No.37 of 2015 in O.S.No.2 of 2011, thereby allowing the petition to implead the proposed party as second plaintiff in the suit.

2. The petitioner is the first defendant. The suit is filed by the first defendant for specific performance on the strengthen of agreement of sale dated 24.04.2006. Pending suit, the first respondent herein has assigned her right in the suit for specific performance to the proposed party by way of a registered assignment deed. Therefore, the first respondent filed a petition stating that the proposed party is entitled for the relief which the plaintiff has prayed for in the suit and as such he is a necessary party to the proceedings.

3. The learned counsel for the petitioner would submit that the agreement for sale is dated 24.04.2006, thereafter, the first respondent filed the suit in the year 2011. Pending suit, one year thereafter i.e., on

14.05.2012 she has assigned her right in favour of the proposed party. After lapse of 3 years, the first respondent had filed a petition to implead the proposed party as second plaintiff. Further he submitted that the proposed party has already initiated the suit in O.S.No.10 of 2009 before the same Court for the very same property for specific performance. In the said suit, the proposed party has also adduced evidence. He further submitted that when the plaintiff is very much there in the suit, she has to prove the agreement of sale and she has to examine before the Court to prove her readiness and willingness in the suit for specific performance. Therefore, the proposed second plaintiff has to be necessarily added a party in the suit filed by the first respondent herein.

4. On a perusal of the affidavit filed in support of the petition reveals that the first respondent has assigned her right in favour of the proposed party. In fact the said proposed party has also initiated the suit in O.S.No.10 of 2009 in respect on the part of the suit property as against the petitioner herein. The first respondent has transferred her right for specific performance of the schedule mentioned property to the proposed party. Therefore, the proposed party is a just and necessary party in the suit

proceedings. That apart to prove the agreement of sale the first respondent has to be examined before the Court. As per Section 15(b) of the Specific Relief Act, the specific performance of contract may be obtained by the representative in interest. Therefore, there is no legal impediment to allow the petition to implead the proposed party as second plaintiff in the suit. This Court finds no illegality or infirmity in the order passed by the trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

22.02.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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To

1.The III Additional District Judge,
Kallakurichi,

2.The Special District Revenue Officer,
NH-68, No.4 Isvarya Garden,
1st Street, MaravaneriPost,
Salem District.

3.The Special Tahsildar,
NH-68, Unit office 1 & 2,
Sundaravinayagar Kovil Street,
Kallakurichi, Villupuram District.

4. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

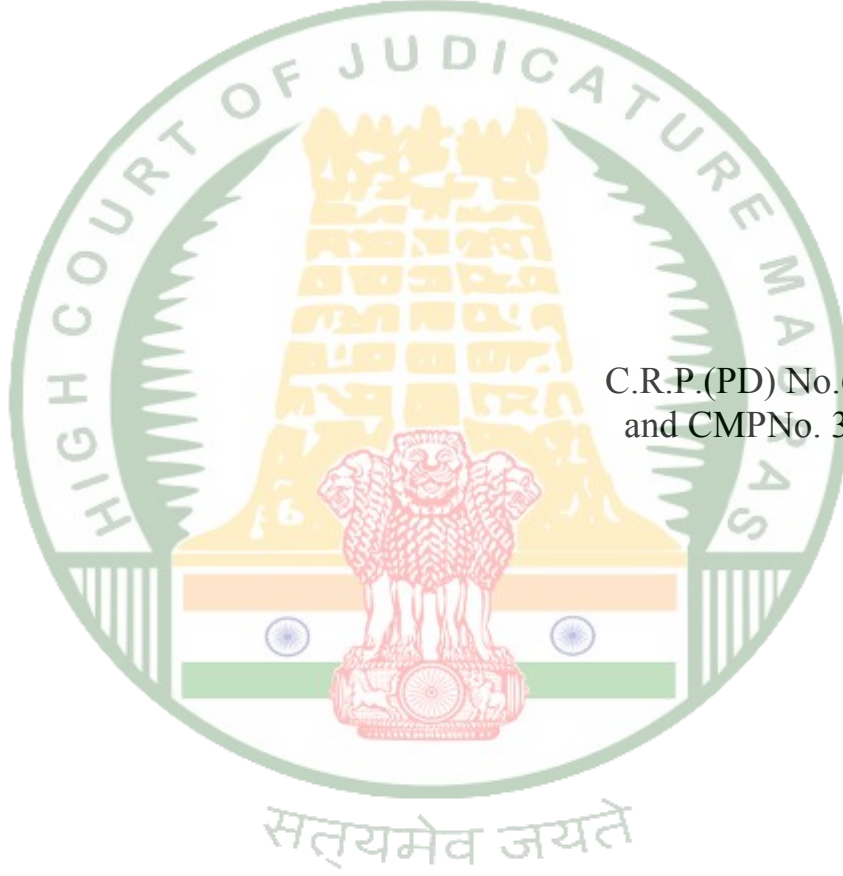


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G.K.ILANTHIRAIYAN, J.

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