

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

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

C.R.P.PD.No.3338 of 2018

and

C.M.P.No.18923 of 2018

1. Annamalai
2. Ayothi

... Petitioners

Vs.

1. Santhi
2. Sekar

... Respondents

PRAYER: The Civil Revision Petition is filed Article 227 of the Constitution of India, to set aside the fair and decretal orders dated 04.10.2017 passed in I.A.No.366 of 2017 in O.S.No.240 of 2009 on the file of the Principal District Munsif Court, Chengam.

For Petitioners : Mr.P.Mani

For Respondents : No Appearance

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.366 of 2017 in O.S.No.240 of 2003 dated 04.10.2017 on the file of the learned Principal District Munsif, Chengam,

thereby dismissing the petition to implead the second petitioner as the second plaintiff in the suit.

2. The first petitioner filed the suit for declaration and permanent injunction in respect of the suit property. The said suit was duly contested by the respondents and the same was decreed in favour of the petitioner by the judgment and decree dated 28.02.2013. Aggrieved by the same, the respondents filed an Appeal Suit in A.S.No.34 of 2013 on the file of the learned Additional Sub Judge, Tiruvannamalai and the same was allowed and the suit was remanded back to the Trial Court for fresh consideration. After obtaining the decree, the first petitioner herein sold out the suit property in favour of the second petitioner herein. After remanding the suit, to the trial Court the respondents filed an additional written statement specifically stating that the suit is not maintainable for the reason that the first petitioner had executed a sale deed in respect of the suit property in favour of the second petitioner herein by the registered sale deed dated 27.05.2013 for the sale consideration of Rs.1,18,012/-. The purchaser of the property under the above sale deed is a necessary party and the first petitioner has no locus-standi to continue with the present plaint. Therefore,

the first petitioner herein filed a petition to implead the second petitioner as second plaintiff in the suit. The same was dismissed for the reason that no reason was assigned by the first petitioner to implead the second petitioner as the second plaintiff. Further, the petition was filed after a period of three years from the date of remanding the matter for fresh trial.

3. Admittedly, the second petitioner herein purchased the suit property from the first petitioner. Therefore, to maintain the suit, the second petitioner is necessary and proper party to the suit as contended by the second respondent in the additional written statement.

4. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in I.A.No.366 of 2017 in O.S.No.240 of 2009 dated 04.10.2017 is hereby set aside. However, the Court below is directed to dispose of the suit in O.S.No.240 of 2009. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

Kv

To

1. The Principal District Munsif, Chengam.
2. The Section Officer,
V.R.Section, High Court of Madras.



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