



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. (MD) No.1585 of 2021

and

C.M.P. (MD) No.8659 of 2021

Thavamani ... Petitioner /Petitioner/ Proposed party

Vs.

1.Sameen Banu

2.Sirajjudin Ahmed

3.Basheer Ahmed

...Respondents 1 to 3 /Respondents 1 to 3 /
Plaintiffs

4.Rajangam

5.Geetharamani

6.Venkatraman

7.Eswaran

... Respondents 4 to 7 / Respondents 4 to

7/

Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to allow the Civil Revision Petition and set aside the fair and decreetal order dated 19.08.2021 made in I.A.No.4 of 2021 in O.S.No.309 of 2010 on the file of the Principal Subordinate Court, Dindigul.

For Petitioner : Mr.H.Arumugam
for N.Vignesh

O R D E R

The Civil Revision Petition has been filed against the dismissal order dated 19.08.2021 passed in I.A.No.4 of 2021 in O.S. No.309 of 2010 on the file of the Principal Subordinate Court, Dindigul, filed under Order 1 Rule 10(2) of the Code of Civil Procedure to implead the petitioner as one the defendant in the suit.

2.The case of the petitioner is that during the pendency of the suit, the fifth respondent / second defendant had suppressing the pending suit and had falsely represented that she alone is entitled to the suit property and entered into a sale agreement on 24.08.2016 by receiving an advance of Rs.5,00,000/- (Rupees Five Lakh only) and agreed to execute a sale deed in favour of the petitioner within one year. When the fifth respondent / second defendant failed to execute the sale deed, the



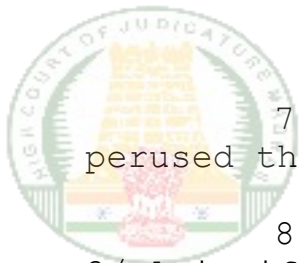
petitioner enquired and came to know about the pendency of the suit and hence, she filed a petition to implead her as a necessary party to the suit.

3.The respondents 1 to 3 / Plaintiffs had filed a counter contending that the suit is in the fag end of the trial and the arguments of the plaintiffs were adduced and at that stage, the petition was filed with a view to delay the pronouncement of judgment. The respondents 1 to 3 / plaintiffs had further contended that the petition had been filed by the petitioner at the instigation of the power of attorney holder of the fifth respondent / second defendant and that the agreement had been entered during the pendency of the suit and that the petitioner is not a necessary party to the suit.

4.The fifth respondent / second defendant had filed a counter stating that the suit items 2 and 3 are purchased by the fifth respondent / second defendant for a sale consideration on 07.02.2002 under a sale deed registered as document No.190/2002. SRO, Dindigul and after purchase, she had executed a General Power of Attorney in favour of the present power agent by virtue of document No.2649/2014, at the Office of the Joint Registrar-I, Dindigul and on the strength of the Power of Attorney Deed, the Power Agent had entered into a sale agreement with the petitioner on 24.08.2016.

5.The trial Court after hearing both the parties held that the rights of the petitioner is subservient to the rights of the second defendant in the suit and is subject to any adjudication that has been made in the suit and dismissed the petition holding that the petitioner is not a necessary party to the proper adjudication of the suit. Against which, the present Civil Revision Petition has been filed.

6.Mr.H.Arumugam, learned counsel representing Mr.N.Vignesh, learned counsel for the petitioner would submit that the petitioner had entered into a sale agreement with the fifth respondent /second defendant on 24.08.2016 and an advance amount of Rs.5,00,000/- (Rupees Five Lakh only) was paid and the fifth respondent /second defendant had agreed to execute a sale deed in favour of the petitioner within one year. Since the fifth respondent /second defendant did not come forward to execute a sale deed, on enquiry, the petitioner found that the suit was pending and thereby, the petitioner had filed a petition seeking to implead her as a necessary party in order to protect her interest. He would further submit that if the petitioner is not permitted to be impleaded, it would cause prejudice and irreparable loss to the petitioner.



7. Heard the learned counsel for the petitioner and perused the materials available on record.

8. The suit had been filed by the respondents 1 to 3/plaintiffs on 29.09.2009, for declaration and injunction. While the suit was pending, the fifth respondent/ second defendant is stated to have been entered into an agreement on 24.08.2016 and received an advance amount of Rs.5,00,000/- (Rupees Five Lakh only) from the petitioner. The petitioner had entered into an agreement, during the pendency of the suit. As rightly held by the learned trial Judge, the rights of the petitioner is subservient to the rights of the fifth respondent /second defendant in the suit and subject to any adjudication and decision to be made in the suit.

9. In view of the same, this Court does not find any infirmity or error in the order passed by the trial Court holding that the rights of the petitioner is subservient to the rights of the fifth respondent /second defendant.

10. In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Principal Subordinate Judge,
Dindigul.

+1 CC to M/s.N.VIGNESH, Advocate (SR-33553[F] dated 02/11/2021)

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01.11.2021

RK/JC (15/11/2021) 3P 3C

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