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C.R.P.No.1543 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.1543 of 2015
and M.P.No.1 of 2015

M.Gunasekaran

.. Petitioner

Versus

- 1) Dhanalakshmi
- 2) Suresh
- 3) Govindarajan
- 4) Ravikumar

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 30.10.2013 in I.A.No.482/2012 in A.S.No.77/2012 on the file of III Additional District Court, Salem.

For Petitioner : Ms.Priyadharshini
For Mr.R.Subramanian

For R1 : Not ready in notice

For RR 2 & 3 : Mr.P.Jagadeeshan

For R4 : No Appearance



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ORDER

This Civil Revision Petition has been filed challenging the order dated 30.10.2013 made in I.A.No.482/2012 in A.S.No.77/2012 on the file of III Additional District Court, Salem.

2. The revision petitioner is the plaintiff in O.S.No.253 of 2008. The said suit was filed for specific performance. The case of the plaintiff is that he executed the sale agreement dated 13.03.2008 by paying Rs.10,001/- to the defendants as advance and fixed the time limit for executing the sale agreement as three months. Thereafter, the defendants made a request for extension of time but failed to execute the same.

3. The trial Court, vide judgment dated 01.11.2011, dismissed the suit and directed the defendants to return the sum of Rs.10,000/- with interest to the plaintiff.

4. As against the dismissal of the suit, the plaintiff filed an appeal in A.S.No.77 of 2012. Subsequently, the plaintiff came to know that the defendants had sold the property to one Porkodi. Therefore, the plaintiff/revision petitioner



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filed an Interlocutory Application in I.A.No.482 of 2013 in A.S.No.77 of 2012 for impleading the purchaser. However, the said application was dismissed by the Lower Appellate Court. Aggrieved against such order of dismissal, the present revision petition has been filed.

5. According to the learned counsel for the petitioner, the defendants did not inform the trial Court about the sale of the subject property. Insofar as the suit for specific performance is concerned, the purchaser has to prove that he is a bonafide purchaser. But in the present case on hand, the purchaser has purchased the property only during the pendency of the suit. Therefore, according to the learned counsel for the Revision Petitioner, the purchaser is not a bonafide purchaser. Therefore, the application for impleading the necessary party ought not to have been rejected.

6. Learned counsel for the revision petitioner drew the attention of this Court to the case of ***Robin Ramjibhai Patel vs. Anandibai Rama alias Rajaram Pawar*** reported in (2018) 15 SCC 614, wherein it has been held that plaintiff, being the dominus litus, has the liberty to chose the party to be impleaded. She also relied on the judgment made in ***Thomson Press (India) Limited vs. Nanak Builders and Investors Private Limited and others*** reported



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in (2013) 5 SCC 397, wherein it has been held that purchaser *pendente lite*, may be impleaded in pending suit for specific performance.

7. Per contra, the learned counsel appearing for the respondents 2 and 3 would submit that the Court below has rightly dismissed the application and therefore, the same does not warrant any interference of this Court and hence prayed for dismissing the revision.

8. Heard both sides.

9. The learned Judge, after going through the application for impleading, found that the application has been filed at the belated stage and a plea of new facts and criteria was introduced by the plaintiff/appellant and that the application is filed only with an intention to drag on the proceedings. The learned Judge also pointed out that the party sought to be impleaded is not necessary for a complete and final adjudication as no relief is claimed against her.

10. This Court finds no infirmity or reasons to interfere with the said findings of the learned Judge. The Revision Petition is devoid of merits.

Accordingly, the present Civil Revision Petition stands dismissed. No costs.



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Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes

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To:

1.The III Additional District Judge, Salem.

2.The Section Officer, V.R.Section, High Court, Madras.



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J.NISHA BANU, J.,

sts/nvsri

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