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CRP.No.2315 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.2315 of 2016
and CMP.Nos.11959 & 11960 of 2019

1.Parvathi
2.Selvam
3.Nagaraj
4.Sakunthala
5.Ravi

... Petitioners

Vs.

1.Boliappan
2.Duraisamy

... Respondents

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 28.03.2016 passed by the Subordinate Judge, Hosur in Civil Miscellaneous Appeal No.2 of 2015 against the fair and decretal order dated 29.04.2015 passed by the District Munsif cum Judicial Magistrate, Denkanikottai in IA.No.150 of 2015 in OS.No.51 of 2015 and to allow the civil revision petition.

For Petitioners : Mr.V.R.Anna Gandhi

For Respondents

For R1 : Mr.C.Mohan Kumar
for Mr.D.Ramesh Kumar



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ORDER

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This civil revision petition has been filed against the fair and decretal order dated 28.03.2016 passed by the Subordinate Judge, Hosur in Civil Miscellaneous Appeal No.2 of 2015 against the fair and decretal order dated 29.04.2015 passed by the District Munsif cum Judicial Magistrate, Denkanikottai in IA.No.150 of 2015 in OS.No.51 of 2015, thereby allowed the application filed by the first respondent herein for interim injunction.

2. Heard, the learned counsel for the petitioners and the learned counsel for the first respondent.

3. The first respondent filed suit for declaration and permanent injunction in respect of the suit property. The case of the first respondent is that he purchased the suit property from the mother of the defendants 2 to 6 herein by the registered sale deed dated 29.01.2001 for valid sale consideration. On the date of the sale deed itself, she delivered the possession of the suit property. In fact, the first defendant and the sixth defendant were attestors of the said sale deed. However, after demise of their mother, the petitioners herein along with two others filed suit in OS.No.120 of 2011 as



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against the first respondent herein and another for declaration declaring that the sale deed executed in their favour as null and void and also for permanent injunction. However, the defendants were set exparte and the petitioners obtained decree of exparte. The respondents are in possession and enjoyment of the suit property and as such the third petitioner lodged complaint in respect of the possession of the property and they were issued CSR on 09.05.2017 on the file of the Inspector of Police, Royakottai Police Station, Krishnagiri in CSR.No.101 of 2017. On the strength of the CSR, they also filed petition to provide police protection in CrI.OP.No.8172 of 2017. On 06.09.2017, on the strength of the decree, the Inspector of Police, Royakottai Police Station, Krishnagiri was directed to give adequate police protection. However, the first respondent lodged complaint and the same was registered in Cr.No.485 of 2014 for the offence under Sections 294(b), 323 of IPC as against the sixth defendant and another.

4. The first respondent also filed suit for declaration and permanent injunction on the strength of the sale deed executed in his favour dated 29.01.2001. While pending the suit, the first respondent also filed application for interim injunction and the same was dismissed by the court below.



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Aggrieved by the same, he preferred civil miscellaneous appeal in CMA.No.2 of 2015 and the same was allowed on the ground that the first respondent proved his possession and enjoyment of the suit property from the date of sale i.e. 29.01.2001. On perusal of records, the first respondent marked documents as Ex.P1 to Ex.P4 in order to prove his possession and enjoyment of the suit property, whereas the petitioners did not mark any document to show their possession and enjoyment of the suit property. Therefore, the court below rightly allowed the appeal filed by the first respondent and this Court finds no infirmity or illegality in the order passed by the court below.

5. Accordingly, this civil revision petition is dismissed. However, the trial court i.e. District Munsif cum Judicial Magistrate, Denkanikottai is directed to complete the trial in OS.No.51 of 2015 within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

1.The Subordinate Judge,

Hosur

2.The District Munsif cum Judicial Magistrate,

Denkanikottai

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19.12.2022