



C.R.P(PD) No.3463 of 2016
and
C.M.P.No.17661 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.12.2022

Coram:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

C.R.P.(PD) No.3463 of 2016
and
C.M.P.No.17661 of 2016

1.Vijay Sundaram
2.Rama
3.Kalpana

.. Petitioners

/versus/

1.K.Selvaraj
2.Leela
3.Sujatha

.. Respondents

Prayer: Civil Revision Petition has been filed under Section 227 of the Constitution of India praying to set aside the order and decretal order of the learned Principal District Judge of Kancheepuram at Chengalpattu, passed in I.A.No.594 of 2013 in O.S.No.251 of 2012, dated 08.09.2016.

For Petitioners :Mr.S.Anigrudh for
M/s K.Ramu

For Respondents :M/s S.Kannaiah for R1
No such person for R2 and R3



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ORDER

The defendants 1 to 3/petitioners have filed this Civil Revision Petition, aggrieved by the fair and decretal order passed by the Principal District Judge, Kancheepuram in I.A.No.594 of 2013 in O.S.No.251 of 2012, dated 08.09.2016, allowing the application filed by the first respondent/plaintiff for impleading the proposed defendants 4 and 5 as parties to the suit.

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

3. The first respondent/plaintiff filed a suit in O.S.No.251 of 2012 against the petitioners/defendants 1 to 3 seeking for the relief of Specific Performance based on the agreement of sale executed by late Thiru.P.S.Sundaram on 18.06.2011. The petitioners/defendants 1 to 3 filed their written statement and they are contesting the suit effectively.



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4. The plaintiff filed an application in I.A.No.594 of 2013 before the Court below seeking to implead the proposed 4th and 5th defendants. The application was filed mainly on the ground that late Thiru.P.S.Sundaram had married the proposed 4th defendant and the suit property originally stood in her name. Through the wedlock, the proposed 5th defendant was born. There was a matrimonial dispute between late Thiru.P.S.Sundaram and the proposed 4th defendant and the divorce proceedings were initiated before the Pune Court in H.M.O.P.No.84 of 1967. The marriage was also dissolved through an *ex parte* decree passed on 27.10.1967.

5. Since the properties stood in the name of the proposed 4th defendant, late Thiru.P.S.Sundaram had filed a suit in O.S.No.341 of 1970 before the District Munsif Court, Poonamallee seeking for a relief of Declaration of Title over the suit property. An *ex parte* decree was passed in the suit on 18.06.1970 and thereby, late Thiru.P.S.Sundaram claimed to be the absolute owner of the suit property. It was, on this basis, late Thiru.P.S.Sundaram, has entered into an agreement of sale



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with the plaintiff on 18.06.2011. Unfortunately, he died on 24.10.2011 and hence, the suit has been laid against the legal representatives of the late Thiru.P.S.Sundaram seeking for the relief of Specific Performance.

6. It is brought to the notice of this Court that the *ex parte* decree that was passed on 18.06.1970 in O.S.No.341 of 1970 has become final. Hence, when a competent Civil Court has already declared the title of the suit property in favour of late Thiru.P.S.Sundaram, there cannot be any doubt on the title to the property. Hence, the apprehension that the proposed 4th and 5th defendants will claim right over the suit property, at some future point of time, is clearly unfounded and legally not sustainable. Hence, impleading the proposed 4th and 5th defendants is unnecessary in the above suit and they are neither proper nor necessary party in the suit.

7. The Court below failed to take note of this crucial fact. At the risk of the repetition, it must be held that where a competent Civil Court has already declared the title of late Thiru.P.S.Sundaram over



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the suit property, the proposed 4th and 5th defendants cannot be impleaded in the suit merely on the basis of some apprehension when they are not proper or necessary parties to the suit.

8. In the light of the above discussion, the fair and decretal order passed by the Court below in I.A.No. 594 of 2013 in O.S.No.251 of 2012, dated 08.09.2016 is hereby set aside.

9. In the result, ***this Civil Revision Petition is allowed*** and there shall be a direction to the Court below to complete the proceedings in O.S.No.251 of 2012, within a period of four months, from the date of receipt of a copy of this order and a compliance report shall be filed before the Court, after completion of the proceedings. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:yes/no
Speaking order/non speaking order
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To
The Principal District Judge,
Kancheepuram.



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N. ANAND VENKATESH,J.

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