



C.R.P.(PD).No.1258/2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.1258/2021 & CMP.No.9854/2021

(Heard through Video Conferencing)

1.C.Manivasakam
2.P.Arulmurugan

... Petitioners

Vs

1.R.Balasubramaniam
2.A.A.Balu
3.G.Ganapathy
4.M.Chinnaraju

... Respondents

Prayer: The Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal orders dated 17.03.2020 passed in I.A.No.1/2020 in O.S.No.49/2009 on the file of the District Munsif Court, Sankari.

For Petitioners : Mr.P.Jagadeesan

For Respondents : Mr.D.J.Venkatesan



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ORDER

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- (1) The challenge in this Revision is to the order of the Trial Court dismissing an application to implead a successor in interest as a party-2nd plaintiff to the suit in OS.No.49/2009.
- (2) The suit in OS.No.49/2009 has been filed by the first petitioner herein seeking a declaration of his title and consequential permanent injunction. During the pendency of the said suit, the plaintiff had transferred the property by way of a Sale Deed dated 23.06.2009 to one Pachamuthu. The said Pachamuthu has executed a Settlement Deed on 06.06.2011 in favour of his son Arul Murugan. Claiming title under the said Settlement Deed, Arul Murugan had filed a suit in OS.No.250/2012 on the file of the District Munsiff, Sankari, seeking a decree for permanent injunction. The suit for declaration of title and injunction filed by the vendor/1st petitioner herein is also pending on the file of the District Musnif, Sankari. There is also a direction for trial of both the suits simultaneously. It appears that the said direction has been issued by this Court for early disposal of the suits.



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(3) While things stood thus, the plaintiff in OS.No.49/2009 filed an application in IA.No.1/2020 in OS.No.49/2009 seeking to implead the plaintiff in OS.No.250/2012 as the 2nd plaintiff in the suit in OS.No.49/2009. This application was opposed on the ground that it would delay the proceedings further and that the 2nd plaintiff is not a necessary party to the suit in OS.No.49/2009, he being the subsequent purchaser. The learned District Munsiff, Sankari, accepted the defence and dismissed the application on the ground of delay also.

(4) Mr.P.Jagadeesan, learned counsel for the petitioners would contend that the dismissal of an application for impleading is wholly improper, more so, when the suit filed by the proposed party in OS.NO.250/2012 seeking injunction is already pending in the very same Court. The learned counsel would express an apprehension that the suit in OS.NO.49/2009 would be dismissed on the ground that the plaintiff therein does not have an interest *in presenti*.

(5) I do not think his apprehension is justified. The plaintiff in OS.No.49/2009 can very well prosecute the suit as he is bound to



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protect the title of the purchaser under the covenant of title that exists in view of Section 55 of the Transfer of Property Act. Even though the 1st petitioner would have sold the property, he can still seek a declaration of his title which would enure the benefit of the purchaser also. It is also seen that the suit in OS.No.49/2009 and the suit filed by the purchaser in OS.No.250/2012 have been directed to be tried simultaneously. The interest of the parties is duly safeguarded. Even though the reason of the Trial Court for dismissing the application may not be fully correct, I am unable to fault the Trial Court for having dismissed the application.

- (6) Hence, this revision fails and it is accordingly **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2022

AP
Internet : Yes
To
The District Munsif, Sankari.



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R.SUBRAMANIAN, J.

AP

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