



C.R.P(PD).No.2321 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD).No.2321 of 2022

1.P.Kalaiselvi
2.P.Vinothini
3.E.Illavarasi

...Petitioners

..Vs.

1.A.Muthusamy
2.M.Lakshmi
3.M.Mohan
4.Ramasamy
5.R.Pushpa
6.R.Saravanan
7.M.Kulanthaivel
8.K.Nila
9.K.Dinesh
10.L.Amaravathy
11.L.Kanagaraj
12.C.Sivashanmugam
13.S.Latha
14.A.Lakshmanan

..Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order of the learned District Munsif,



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Rasipuram, dated 09.06.2022 made in I.A.No.1 of 2021 in O.S.No.4 of 2017.

For Petitioners : Mr.J.Prithivi

For Respondents : Mr.S.Senthil for R1 to R3
No appearance for R4 to R14

ORDER

This Civil Revision Petition has been preferred challenging the order of the District Munsif Court, Rasipuram dated 09.06.2022 made in I.A.No.1 of 2021 in O.S.No.4 of 2017.

2.Heard the learned counsel for the petitioner as well as the learned counsel for the respondents 1 to 3 and perused the entire materials available on record.

3.The revision petitioners are the plaintiffs who have filed the suit in O.S.No.4 of 2017 for permanent injunction. At the time of filing the suit, 29 documents were filed along with the plaint. During the pendency of the suit, the petitioners have filed an interlocutory application seeking



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permission of the Court to return Document No.2 (the original release deed dated 27.04.1959 executed by Kumara Gounder in favour of Sundara Gounder) and Document No.4 (the Will dated 12.06.1987 executed by Kumara Gounder in favour of Palanivel, who is the husband of the first plaintiff). The said application was dismissed. Aggrieved over that, the petitioners have preferred this revision petition.

4.The learned counsel for the petitioners submitted that since the suit is only for the relief of permanent injunction and there is no dispute with regard to the title of the suit property, no harm will be caused if the document Nos.2 and 4 are returned to them.

5.The records would show that the Document Nos.2 and 4 were produced by the plaintiffs and the suit has been filed for the relief of permanent injunction. Earlier, the respondents have also filed the suit in O.S.No.178 of 2016 for the relief of declaration and permanent injunction in respect of 'ABC' suit track. The suit was filed seeking temporary



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injunction in respect of the suit track in I.A.No.938 of 2017 and the same was allowed on 13.02.2018. The above facts were not denied by the revision petitioners also. The only contention of the revision petitioners is that there is no dispute in respect of the title of the properties involved in Document Nos. 2 and 4 and the respondents can not have any objection to return the said document to the revision petitioners.

6.The learned counsel for the respondents submitted that if the original documents are returned to the petitioners, they would try to encumber the property, including the suit track and that would complicate the issue and hence the documents can be returned on an undertaking that the petitioners will not alienate the suit property.

7.Admittedly, the dispute is with regard to the ABC suit track as shown in the rough sketch attached with the plaint. The records would show that an Advocate Commissioner has been appointed and he has visited the suit property and submitted his report. The respondents have



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sought only eastmentary right over the suit track and that means, he has admitted the dominant ownership of the petitioners over the suit track. For the sake of arguments, even if the petitioners had chosen to sell the property, including the suit track, still the cause of action on which the respondents have filed the suit will not be lost. The judgment and decree if passed in favour of the respondents and the others in the suit, will bind the subsequent purchasers of the petitioners also.

8.However, the suit is not with regard to the title of the property. The respondents themselves have claimed only eastmentary right over the suit track. Hence the learned trial Judge need not hesitate to return the title deeds, namely Document Nos.2 and 4 to the petitioners herein. The petitioners have got some genuine reasons in connection with their business for getting back the documents. So the Document Nos.2 and 4 can be returned by substituting certified copies of the same. Hence the order of the learned trial Judge is liable to be set aside.



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8.In view of the above, this Civil Revision Petition is allowed and the order of the learned District Munsif, Rasipuram, dated 09.06.2022 made in I.A.No.1 of 2021 in O.S.No.4 of 2017 is hereby set aside. No costs.

29.08.2022

vr

Index:Yes No

Speaking Order:Yes/No

To

- 1.The District Munsif,
Rasipuram.
- 2.The Section Officer,
VR Section, Madras High Court, Chennai.



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R.N.MANJULA,J.

Vkr

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