



C.R.P.No.2832 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 12.09.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.2832 of 2022
and C.M.P.No.15319 of 2022

1.G.Komala

2.V.Udaya Kumar

.. Petitioners

Vs.

1.S.Kumar

2.S.Suseela

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to allow the above Civil Revision Petition and set aside the order and Decree date 07.09.2021 made in I.A.No.5 of 2021 in O.S.No.3503 of 2019 on the file of the XVIII Additional City Civil Court, Chennai.

For Petitioners :M/s.D.Rajagopal

O R D E R

The 1st respondent herein filed a suit for declaration and injunction against the second respondent and 1st petitioner. The second defendant / 1st petitioner in revision filed a written statement stating that she had already settled the property in favour of the 2nd petitioner herein. Based on that plea



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raised by the 1st petitioner, the 1st respondent/plaintiff filed a petition for impleading 2nd petitioner herein in I.A.No.5 of 2021 and the said application was allowed by the Trial Court. Aggrieved by the same, the second defendant in the suit and the proposed 3rd defendant filed this revision petition.

2. The learned counsel for the petitioner submitted that though the 1st petitioner in her pleadings has stated that she settled the property in favour of the 2nd petitioner. The document executed by 1st petitioner in favour of the 2nd petitioner dated 23.05.2018 is only a Will, though it was styled as a settlement. Therefore, he submitted that the second petitioner has not acquired any interest over the suit property and consequently he need not be impleaded in the suit.

3. The perusal of the counter affidavit filed by the 2nd petitioner before the Court below makes it clear that he asserted his right over the suit property. The settlement deed now produced by the petitioner in the typed set of paper was not produced before the trial Court. Therefore, at the time of passing the order, the learned Judge did not have the benefit of looking at the



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said document. In view of the clear plea raised by the 1st petitioner in her written statement and the assertion made by the 2nd petitioner in his counter to the impleading petition regarding the title to the suit property and also having regard to the nature of the relief sought for in the suit, the impugned order allowing impleading petition cannot be faulted. If the 2nd petitioner is not impleaded in the suit, certainly at the time of execution, there will be difficulty. In order to decide the lis in a comprehensive manner, the presence of the 2nd petitioner is absolutely necessary. Therefore, I do not find any illegality or irregularity in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. It is open to the 2nd petitioner to file a written statement, raising whatever plea he wants to raise with regard to the nature and character of the document under which he claims title to the suit property. Consequently, connected Civil Miscellaneous petition is closed. No costs.

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Index: Yes/ No
Speaking Order / Non-Speaking Order
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S.SOUNTHAR, J.
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To

1. The XVIII Additional City Civil Court,
Chennai.

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