



CRP.(PD).No.2837 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2021

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP(PD).No.2837 of 2021 &
C.M.P.No.20569 of 2021

N.Raju

S/o.P.Nallappan,

... Petitioner/Petitioner/2nd Defendant
Vs

1.A.Kandasamy

S/o.Alaga Gounder,

2.A.Rajamuthu

S/o.Alaga Gounder,

3.Veldone Groups Marketing Agents,

Rep. By its Proprietor,

306/106A, Junction Main Road,

Opp. to Asian Paint Company,

Thiruvagoundanor,

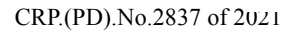
Salem-636 005.

...Respondents 2 & 3/Defendants 1 & 3

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, pleased to set aside the Fair and Final Orders dated 25.03.2021 passed in I.A.No.3 of 2020 in O.S.No.271 of 2018 on the file of the II Additional District Munsif Court at Salem.

For Petitioner : R.Nalliyappan

For Caveator : T.S.Vijaya Raghavan



This is the seventh occasion, this matter gets listed for admission. For varieties of reason, adjournments have been granted. Today, again the matter is posted and there is no representation for the petitioner. Learned counsel for the caveator is present.

2. In a pending suit for permanent injunction, the trial of the case has been concluded. The matter is posted before the trial Court for final hearing. Now the 2nd defendant had taken out an application in I.A.No.3 of 2020 in O.S.No.271 of 2018 for appointing a Commissioner under Order XXVI Rule 9 CPC for eliciting a solicitory fact that the suit property is not an agricultural property as contended by the plaintiff, as according to him it has been developed into a lay out. This application was dismissed by the trial Court on the following grounds:

- That the 1st defendant has not contested the suit.
- The 2nd defendant though filed the written statement did not choose to cross examine P.W.1. nor he has entered the box to adduce his side of the evidence.



- The 3rd defendant has participated in the trial effectively and the trial itself was concluded.
- In the written statement it is not contended by the 2nd defendant that the property continues to be an agricultural property.

4.The 1st respondent in the CRP is the plaintiff who is said to be dead. Earlier, adjournment was granted for impleading the legal representatives of the 1st respondent.

5. This Court perused the order carefully and did not find any irregularity, inappropriateness or illegality in the Order of the trial Court as to warrant and interfere with the order of the Trial Court. Only when this Court *prima facie* finds that there is a case to interfere with the order of the trial Court which may upset the inter se procedural rights of the parties, it needs the opponent of the revision petitioner before the Court. Therefore, there is no need for this Court to consider the persons impleaded as LR's of the 1st respondent/plaintiff at this stage, since this Court does not find any merit in the revision. Necessarily, before the trial Court the plaintiff has to implead the legal representatives of the 1st respondent/plaintiff and need to take steps



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to implead themselves in the suit, this is the job of the plaintiff and not the Trial Court.

5. In conclusion, this Court does not find any merits in this petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition C.M.P.No.20569 of 2021 is closed.

07.03.2022

Index : Yes/No
Speaking Order/Non Speaking Order
msv/dk

To
The II Additional District Munsif Court,

Salem.



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N.SESHASAYEE, J.,

msv/dk

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