



C.R.P.No.3369 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3369 of 2022

and C.M.P.No.17918 of 2022

1. Ramadoss Naidu
2. Pappammal

... Petitioners

Vs.

1. Loganathan
2. Ravi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the Fair and Decretal order of the Special Subordinate Judge I.A.No.46 of 2018 in A.S.No.46 of 2019 dated 11.03.2022.

For Petitioners : Mr.K.Venkatasubban

For Respondents : No Appearance

ORDER

This Civil Revision Petition has been filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking to implead the 2nd petitioner herein as a 2nd plaintiff in the pending first appeal.



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2. The 1st petitioner herein filed a suit for bare injunction against the respondents in O.S.No.43 of 2000 on the file of the District Munsif, Arakkonam. The said suit was dismissed by the Court below by stating that the 1st petitioner failed to provide correct measurement. The Trial Court also pointed certain discrepancies in the measurements in the parent documents of the 1st petitioner and the discrepancies of the property in the plaint schedule. Aggrieved by the said decree, the 1st petitioner has filed appeal in A.S.46 of 2019 on the file of the Special Sub Court, Arakkonam. Pending 1st appeal the petitioner had taken up an application for impleading his wife as the 2nd plaintiff in I.A.No.46 of 2018 and the said petition was dismissed by the First Appellate Court. Aggrieved by the same the revision petitioner has come up to this Court by way of revision.

3. The learned counsel for the petitioners submitted that the Trial Court dismissed the suit on the ground that there were certain discrepancies with regard to the measurement found in the title documents of the 1st petitioner and the description of the suit property in the plaint schedule. The presence of the 2nd petitioner is absolutely necessary in view of the fact, she purchased a portion of the property pending suit on 17.10.2008.



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4. I am unable to agree with the submission made by the learned counsel for the petitioner. Even according to the case of the 1st petitioner, a portion of the property was purchased by his wife namely the 2nd petitioner, subsequent to filing of the suit. As far as the suit for injunction is concerned the legal possession of the plaintiff has to be ascertained with reference to the date of filing the plaint. In the case on hand, admittedly the 2nd petitioner purchased a portion of the suit property only subsequent to the presentation of the plaint. Therefore, based on subsequent cause of action, it is not open to the 1st petitioner, to seek impleadment of the 2nd petitioner that too before the First Appellate Court. It is always open to the petitioners to file a separate suit for appropriate relief based on the title deed dated 07.10.2008. Therefore I do not find any infirmity in the order passed by the Court below. Hence, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/ No

Speaking Order / Non-Speaking Order

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S.SOUNTHAR, J.

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To
The Special Subordinate Judge, Arakkoanm.

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