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C.R.P.No.158 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM:

The Hon'ble MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.No.158 of 2020
and C.M.P.No.888 of 2020

K.Ravikumar

...1st Respondent/Plaintiff/Petitioner

-Vs-

1.N.Arvind
2.K.Balachandran
3.K.Vijayakumar
4.Tmt.Meenatchi Arvind
5.Tmt.D.Punithavathy
6.Tmt.J.Revathy
7.Tmt.Madhanika Madhavan
8.Tmt.Kanchanamala
9.M.Muthukumar
10.Tmt.vijayanthi Mala
11.Tmt.Anusuya
12.Mr.S.Venkateswaran

...3rd Party/Petitioner/Respondent

...Respondents 2 to 12/
Defendants 1 to 11/Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 31.10.2019 made in I.A.No.6 of 2019 in O.S.No.5473 of 2017 on the file of the learned XVII Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.M.Devendran

For R1 : Mr.A.Abdul Kader
for Mr.A.Kanagasabapathy



For R2, R4, R5
R6, R7, R10 & R11 : No appearance

For R3, R8, R9 & R12 : Notice not ready

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 31.10.2019 made in I.A.No.6 of 2019 in O.S.No.5473 of 2017 on the file of the learned XVII Additional Judge, City Civil Court, Chennai.

2.Mr.M.Devendran, learned Counsel for the Revision Petitioner submitted that the Plaintiff in the suit in O.S.No.5473 of 2017 is the Revision Petitioner herein. The suit was filed for the relief of partition. The Plaintiff and Defendants 1 to 11 are the legal heirs of the late P.Krishnamurthy. The suit property of the late P.Krishnamoorthy is situated at Secretariat Coloney, Kilpauk. During trial proceedings in the suit, the Defendants 1 to 11 entered appearance. The learned Counsel for the Revision Petitioner submitted that except the 3rd Defendant all the other Defendants wanted to develop the suit property.



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3.The 3rd Defendant in O.S.No.5473 of 2017 had filed written statement stating that her husband, Thiru.N.Arvind, had entered into an Agreement of Sale with her father, the late P.Krishnamurthy [father of the Plaintiff and Defendants]. In such circumstances, the said late P.Krishnamurthy entered into an Agreement of Sale with him on 17.09.1997, thereby agreeing to sell 1500 Sq.ft., of vacant land for the construction of a ground-floor living flat together with a car parking of 220 Sq.ft. Based on the written statement of the 3rd Defendant, the husband of the 3rd Defendant, Thiru.N.Arvind, had filed I.A.No.6 of 2019 in O.S.No.5473 of 2017, which was resisted by the Plaintiff, claiming that the Plaintiff is the dominus litis. The learned XVII Additional Judge, City Civil Court, Chennai, had conducted enquiry. After due enquiry, the learned XVII Additional Judge, City Civil Court, Chennai, had allowed I.A.No.6 of 2019 in O.S.No.5473 of 2017 by order dated 31.10.2019.

4.The learned Counsel for the Revision Petitioner further submitted that the alleged sale agreement was enforced by the husband of the 3rd Defendant during the life time of late P.Krishnamurthy or even after his death through his legal heirs. The sale agreement deed entered in the year



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1997 had lost its value with the lapse of time. The learned XVII Additional Judge, City Civil Court, Chennai, had misdirected herself and had allowed the Petition dated 31.10.2019.

5.It is to be noted that the suit was filed for partition. Whereas the third party is allowed to be impleaded by order of the Court dated 31.10.2019, which amounts to complicating the suit for partition simultaneously with the suit for specific performance. Therefore, the learned Counsel for the Revision Petitioner seeks to set aside the order passed by the learned XVII Additional Judge, City Civil Court, Chennai, dated 31.10.2019.

6.Mr.A.Abdul Kader, learned Counsel for the first Respondent vehemently objected to the submission of the learned Counsel for the Revision Petitioner, stating that the order of the learned XVII Additional Judge, City Civil Court, Chennai, is a well-reasoned order based on materials and facts available during the enquiry.



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7. During enquiry, documents were marked as Exs.B1 to B10, which had been discussed by the learned Judge in the order, particularly the documents which came into existence during the life time of late P.Krishnamurthy. The sale agreement entered into with the son-in-law, the Petitioner in I.A.No.6 of 2019 in O.S.No.5473 of 2017, was acted upon by late P.Krishnamurthy allowing the Petitioner in I.A.No.6 of 2019 to put up construction of 1500 Sq.ft in the land allotted by late P.Krishnamurthy and to reside there. Also, in the course of the enquiry, the invitation for the Grihapravesam (housewarming ceremony) as well as the photographs, wherein the said late P.Krishnamurthy, his wife and his children, including the Plaintiff, attended the Grihapravesam, were discussed by the learned Judge. Also in the sale agreement, the Plaintiff and other sons of the late P.Krishnamurthy had affixed their signatures as witnesses. Therefore, the learned XVII Additional Judge, City Civil Court, Chennai, had allowed the Petition filed by the husband of the 3rd Defendant N.Arvin, to implead himself as his valuable right is involved in the suit for partition. It is to be noted that the learned Judge has relied on the ruling in the case of **Savithri Devi Vs. District Judge, Gorakhpur**, reported in **AIR 1999 SCC 976**.



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8. In support of the order passed by the learned XVII Additional Judge, City Civil Court, Chennai, the learned Counsel for the first Respondent relied on the following rulings:-

- (a) In the case of ***C.M.V.Krishnamachari Vs. M.D.Dhanalakshmi Ammal and Ors.*** reported in ***AIR 1968 Mad 142.***
- (b) In the case of ***Shrimant Shamrao Suryavanshi and anr. Vs. Pralhad Bhairobe Suryavanshi (D) by Lrs. and Ors.*** reported in ***2002 (3) LW 211.***
- (c) In the case of ***Savitri Devi Appellant Vs. District Judge, Gorakhpur and Others*** reported in ***AIR 1999 SC 1976.***

9. The learned Counsel for the first Respondent submitted that the order of the learned XVII Additional Judge, City Civil Court, Chennai, is a well considered and well-reasoned order, not warranting any interference by this Court. Therefore, this Civil Revision Petition is to be dismissed as having no merits.

10. Point for consideration:-

Whether the order passed by the learned XVII Additional Judge, City Civil Court, Chennai,



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allowing the I.A.No.6 of 2019 in O.S.No.5473 of 2017 by order dated 31.10.2019, is to be set aside?

11.On consideration of the rival submissions, on perusal of the order passed by the learned XVII Additional Judge, City Civil Court, Chennai, allowing I.A.No.6 of 2019 in O.S.No.5473 of 2017 filed by the husband of the 3rd Defendant in O.S.No.5473 of 2017, and in the light of the reported rulings cited by the learned Counsel for the first Respondent, it is found that the valuable right of the impleading party is involved. The first Respondent had put up construction during the life time of the late P.Krishnamurthy, and his sons attended the Grihapravesam. After putting up the construction, the impleading party permitted late P.Krishnamurthy to put up construction on the first floor in order to provide protection for the elderly couple (the father-in-law and mother-in-law of first Respondent). Since the 3rd Defendant is the daughter of the late P.Krishnamurthy, who served as a Doctor in the Government service in Chennai, and who along with her husband, the first Respondent had been moral support to her aged parents. If this Petition is dismissed, it will cause unnecessary hardship for the impleading party, who had invested money, and also during the life time of the late P.Krishnamurthy, who had acted



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upon the sale agreement executed by him. Therefore, the submission of the learned Counsel for the Revision Petitioner that the impleading party had not acted upon the sale agreement by enforcing it through a Court of law will not hold good and the same is rejected.

12.In the light of the above discussion, the point for consideration is answered against the Revision Petitioner and in favour of the Respondents. The order passed by the learned XVII Additional Judge, City Civil Court, Chennai, allowing the I.A.No.6 of 2019 in O.S.No.5473 of 2017 by order dated 31.10.2019, is not set aside as it is found well reasoned order which does not warrant any interference. The same is to be confirmed.

In the result, this **Civil Revision Petition stands dismissed** confirming the order passed by the learned XVII Additional Judge, City Civil Court, Chennai, allowing I.A.No.6 of 2019 in O.S.No.5473 of 2017 dated 31.10.2019. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Speaking/Non-speaking order



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To

The XVII Additional Judge,
City Civil Court,
Chennai.



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SATHI KUMAR SUKUMARA KURUP, J.,

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