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C.R.P.(PD)Nos.3917 of 2009 & 226



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.(PD)Nos.3917 of 2009 & 2260 of 2016
and M.P.No.1 of 2009, C.M.P.Nos.11715 & 13999 of 2016**

S.Karthikeyan

... Petitioner in
both CRPs.

Vs.

1. D.Mohan
2. S.Raja
3. R.Kalavadi (died)

4. S.Raja
 5. R.Saraswathy
 6. R.Deepa
 7. R.Jayalakshmi
- (Respondents 4 to 7 brought on record
as legal heirs of the deceased 3rd
respondent viz., R.Kalavadi vide
Court order dated 20.01.2020 made in
C.M.P.No.20479 of 2017 in C.R.P.No.
3917 of 2009)

... Respondents in
C.R.P.No.3917 of 2009

1. D.Mohan
2. S.Raja
3. R.Kalavadi
4. Jegannathan @ Babu Gramini

... Respondents in
C.R.P.No.2260 of 2016

Prayer in C.R.P.No.3917 of 2009 : Civil Revision Petition is filed under Article 227

of the Constitution of India against the fair and decretal order dated 16.09.2008 made



in I.A.No.910 of 2007 in O.S.No.7979 of 2006 on the file of the learned V Assistant Judge, City Civil Court, Chennai.

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Prayer in C.R.P.No.2260 of 2016 : Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 29.04.2016 made in I.A.No.684 of 2016 in O.S.No.875 of 2007 on the file of the learned V Assistant Judge, City Civil Court, Chennai.

In both CRPs.

For Petitioner : Mr.R.Rajesh Kumar

For R1 : Mr.B.Venugopal

In C.R.P.No.3917 of 2009

For R2 & R4 to R7 : Mr.K.P.Santhosh

COMMON ORDER

Heard the learned counsel for the civil revision petitioner and the learned counsel for the respondents 1, 2 & 4 to 7.

2. The plaintiff in O.S.No.7979 of 2006 is the civil revision petitioner in both the CRPs. The respondents 1 to 3 in both the CRPs are the defendants in O.S.No.7979 of 2006. The property, which is the subject matter of the said suit was sold to the petitioner by way of registered sale deed by one P.M.Jegannathan, 4th respondent in C.R.P.No.2260 of 2016, on 06.10.2006.



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3. It is the case of the petitioner that the defendants attempted to interfere with his possession and therefore, he presented a suit for permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit property.

4. To this suit, a written statement had been filed by the defendants stating that the property they had purchased is a different property. They had purchased 900 sq.ft. of vacant land in old S.No.27, old T.S.No.4603, Block No.103, New S.No.4603/12 bearing Door No.7/1, Parthasarathy Puram, Chennai-600 017. The property said to have been purchased by the plaintiff is as follows:

“All that piece and parcel of vacant land of north Chennai registration District T.Nagar Sub-district Mambalam Guindy Taluk, Chennai District, Chennai-17 T.Nagar village, North T.Nagar Parthasarathypuram Main Road, Plot No.54,55,56 and 57 T.S.No.4693/1, Block No.105, patta no.376, S.R.No.44/70, T.M.I.A. Act 30/63-B M.D.S. dated 21.05.1971 S.R.No.176/73 and measuring about 2622 sq.ft. vacant land. North by:33 ft., South by: T.S.No.6780, Block No.106, Compound wall, East by T.S.No.4693/45, 4693/46, two constructed building, West by R.Kannaiah Naidu House, Survey No.4603/9, Block No.103”

There seems to be dispute in the identity of the property.



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5. According to the defendants, the property purchased by the plaintiff and the property purchased by them are different. Whereas the learned counsel for the plaintiff would assert that they are one and the same property. Since there is a dispute in the identity, the entire dispute can be resolved only by way of appointment of an Advocate Commissioner, who would take assistance of the surveyor and submit the report. The same issue arises in C.R.P.(PD)No.2260 of 2016 and therefore, they are disposed of by this common order.

6. Both the suits in O.S.Nos.7979 of 2006 & 875 of 2007 are suits for injunction. In both the cases, the property is a vacant land. The plaintiff claims the purchase through one title deed, whereas the defendants claim the purchase through the other. It is the case of the plaintiff in O.S.No.7979 of 2006 that the property purchased by the defendants is a portion of his property. Whereas it is the case of the defendants that the properties are entirely different and are not one and the same. I feel, since there is a dispute in identification of the property, it is better to appoint an Advocate Commissioner, who shall visit the suit site along with the surveyor and submit a report.

7. In fine,

(i) Both the Civil Revision Petitions are allowed.

(ii) Mr.K.Gowtham, Advocate, Enrolment No.464/2020, Mobile No.96003



04168, mail-id : gowtham.adv2@gmail.com, Old No.157, New No.323, 1st floor,
Linghi Chetty street, Chennai-600 001, who is practicing before the High Court and
City Civil Court, Chennai, is appointed as an Advocate Commissioner.

(iii) The Advocate Commissioner shall visit the suit property and submit a
report to the V Assistant City Civil Court, Chennai, specifically to state whether the
property of the defendants in old S.No.27, old T.S.No.4603, Block No.103, New
T.S.No.4603/12 is comprised in the plaint suit schedule property.

(iv) Initial remuneration to the Advocate Commissioner is fixed at Rs.25,000/-
(Rupees Twenty five thousand only), which shall be borne by the plaintiff. No costs.
Consequently, connected Miscellaneous Petitions are closed.

12.07.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
kj

Copy To

1. V Assistant Judge
City Civil Court, Chennai.

2. Mr.K.Gowtham, Advocate
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C.R.P.(PD)Nos.3917 of 2009 & 2261



V.LAKSHMINARAYANAN,J.

Kj

C.R.P.(PD)Nos.3917 of 2009 & 2260 of 2016
and M.P.No.1 of 2009,
C.M.P.Nos.11715 & 13999 of 2016

12.07.2023