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C.R.P. (PD) No.1516 of 2018
and C.M.P. No.8116 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P. (PD) No.1516 of 2018 and C.M.P. No.8116 of 2018

Madhavan

... Petitioner

Vs.

1.Govindaraj

2.The Sub Registrar
Arcot

3.Ravi

4.Muniyammal

5.Kantha

6.Lokammal

7.Vasantha

8.Savithiri

... Respondents

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A. No.523 of 2017 in O.S. No.72 of 2017 dated 26.02.2018 on the file of the Subordinate Judge, Ranipet, Vellore District.

For Petitioner : Mr.K.Mohanamurali

For Respondents : Mr.A.Gouthaman for R1
M/s.Sarvabhauman Associates for R3
Mr.C.Jayaprakah, Govt. Advocate



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ORDER

The plaintiff in O.S. No.72 of 2007 has preferred this revision challenging an order dismissing I.A. No.523 of 2017 which the revision petitioner had taken out for amending the plaint under Order VI Rule 17 CPC.

2. The revision petitioner has laid the suit for specific performance for enforcing an agreement of sale dated 10.09.2006 which he claims to have entered into with the first defendant. The 4th defendant in the suit claims that he is the prior agreement holder on the strength of which he has laid O.S. No.78 of 2007 against the first defendant and obtained an ex-parte decree for specific performance. He has subsequently laid E.P. No.45 of 2007 before the District Munsif Court, Arcot, which later on was transferred to Sub Court, Ranipet, as E.P. No.1 of 2012, pursuant to an order in Transfer OP No.24/2009 filed by the revision petitioner before the District Court concerned. The EP is still pending.

3. It is in this back drop, the plaintiff has taken out I.A. No.523 of 2017 for amending the plaint with the primary objective of seeking a declaration that the decree obtained by the 4th defendant in O.S. No.78 of 2007 is null and void and



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not binding on the plaintiff. The trial court, dismissed the same and hence the revision petitioner is before this court.

4. Heard both sides and perused the materials available on record.

5. While the revision petitioner stuck to his ground for seeking an amendment on the basis of the facts here-in-above narrated, the learned counsel for the 3rd respondent herein/4th defendant would claim that the defendants knew about the decree even prior to 2009 and that he had preferred Transfer OP No.24 of 2009 for seeking transfer of E.P. No.45 of 2007 to be taken along with the present suit by the Sub Court, Ranipet and hence this I.A. No.523 of 2017 is filed with an intent to drag on the proceedings and is also beyond the period of limitation.

6. Learned counsel for the plaintiff would now change his focus and would submit that inasmuch as the plaintiff is not a party to O.S. No.78 of 2007 he forego the amendment seeking declaration that the decree passed in O.S. No.78 of 2007 is not binding. He merely seeks he may be permitted to insert a single sentence in his pleadings that the decree passed in O.S. No.78 of 2007 does not



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bind him, as he is not a party to the same.

7. Instead of amending the plaint, this court now directs the revision petitioner/plaintiff to file his additional pleading/rejoinder taking up such pleas but without any additional prayer as regarding the binding nature of the decree passed in O.S. No.78 of 2007 vis-a-vis the interest in the present suit. Since the suit is pending from 2007, the plaintiff is required to file his additional pleadings under Order VIII Rule 9 CPC on or before 27.03.2023. If the suit is posted for hearing beyond 27.03.2023, the trial court is directed to advance the hearing to 27.03.2023.

8. With the above observation and direction, the civil revision petition is disposed of. However, there is no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

13.03.2023

Asr

To
The Subordinate Judge, Ranipet

Note to office:

Issue order copy on



15.03.2023

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N.SESHASAYEE, J.,

Asr

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13.03.2023