



C.R.P. No. 1297 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 1297 of 2022

and

C.M.P.No.6905 of 2022

P. Senthilkumar

...Petitioners

.Vs.

1. Sivasubramanian @ Sivasubramaniam

2. C. Gowtham

3. T. Balakrishnan

4. K. Sathasivam Chettiyar

5. K.C.Thaiwasikamani

6. Velusamy

7. Ravichandran

8. R. Thandapani

...Respondents



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Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 20.01.2022 in I.A.No.34 of 2020 in O.S.No.72 of 2010 on the file of Third Additional District Court, Dharapuram and pass orders.

For Petitioner : Mr. Naveen Kumar Munisri for K. Sudhakar

For Respondent-1 : Mr.T. Meganathan

For Respondent-2 : Mr.C. Prakasam

For Respondents 3 to 7 : No Appearance

ORDER

This petition is filed to set aside the order dated 20.01.2022 passed in I.A.No.34 of 2020 in O.S.No.72 of 2010 on the file of Third Additional District Court, Dharapuram.

2. The facts of the case is that the first respondent herein has filed I.A.No.34 of 2020 in O.S.No.72 of 2010 on the file of Third Additional



District Court, Dharapuram to implead the first respondent herein as a party in the suit and the same was allowed vide order dated 20.01.2022.

Aggrieved over the same the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that the subject property belongs to one Chellamuthu who executed a settled deed to his son Gowtham, who inturn executed a General power of attorney to one Balakrishnan. Whiles, the petitioner herein had entered into a sale agreement with the said Balakrishnan/third respondent herein who failed to execute the sale deed within a stipulated time. Hence the petitioner filed O.S.No.72 of 2010 on the file of Third Additional District Court, Dharapuram seeking for specific performance and when the same is pending, the first respondent herein has filed I.A.No.34 of 2020 in O.S.No.72 of 2010 on the file of Third Additional District Court, Dharapuram to implead himself as a party to the suit and the same was allowed vide order dated 20.01.2022.

4. The learned counsel for the respondents submitted that the



Court below has gone into each and every aspect in proper perspective and arrived at a conclusion that the first respondent is a necessary party in the suit and allowed the above I.A. Hence, there is no necessity to interfere with the impugned order and prays to dismiss this petition.

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

6. On a perusal of records it is seen that the first respondent herein entered into criminal conspiracy with revenue officials and created a forged document that the said Chellamuthu had alienated the subject property to him. Likewise, the first respondent executed a sale deed infavour of one Marimuthu who inturn had executed a sale deed in favour of S.Palanisamy. It is pertinent to note that the said Marimuthu entered into a sale agreement with one K. Palanisamy and failed to execute the sale deed. Hence the said K.Palanisamy failed a specific performance suit in O.S.No.126 of 2005 and the same was ordered against Sivasubramaniam/first respondent and Marimuthu. Subsequently the first respondent herein cancelled the sale deed executed to the Marimuthu.



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7. Furthermore, the first respondent had not produced any original documents before the III- Additional District Court Dharapuram and he has not come forward to compare the signatures of the Chellamuthu . Hence, the first respondent has no legal right over the subject property and impleading him in the suit is unnecessary.

8. In view of the above, this Civil Revision Petition is allowed and the order passed by the learned Third Additional District Judge on 20.01.2022 in I.A.No.34 of 2020 in O.S.No.72 of 2010 is hereby set aside. No order as to costs. Consequently, the connected miscellaneous petition is closed.

11.09.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The Third Additional District Court, Dharapuram



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V.BHAVANI SUBBAROYAN,J.
Smn

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