



WEB COPY

CRP(NPD)No.2008



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.(NPD)No.2008 of 2016
and C.M.P.No.10475 of 2016**

S.Chandrababu

... Petitioner

Vs.

S.Dillibabu

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 17.11.2015 passed in I.A.No.401 of 2013 in O.S.No.500 of 2004 on the file of the Principal District Court, Kancheepuram District at Chengalpattu.

For Petitioner : No appearance

For Respondent : No appearance

ORDER

The revision arises against an order passed in I.A.No.401 of 2013 in O.S.No.500 of 2004 on the file of the Principal District Court, Kancheepuram at Chengalpattu.

<https://www.mhc.tn.gov.in/judis>



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2. The civil revision petitioner is the defendant and the respondent is the plaintiff. I.A.No.401 of 2013 is an application filed by the plaintiff for passing of final decree. The Court had passed a preliminary decree on 30.07.2010. In pursuance thereof, an application has been filed for final decree.

3. It is the case of the civil revision petitioner that the Second Appeal had been preferred in S.A.No.1053 of 2005 and that was dismissed on 15.03.2013 and therefore, the preliminary decree is not executable.

4. Second Appeal No.1053 of 2005 arose out of the suit for bare injunction whereunder, the suit was dismissed on the ground that the plaintiff therein had failed to prove exclusive title to the suit property. The petitioner further pleads that since third party interests are involved, that also, has to be taken into consideration at the time of final decree.

5. If third party rights are involved, it is for the said third party to move the final decree Court and get themselves impleaded to work out their equity. The party defendant cannot plead that the preliminary decree is void on the ground that third party interests are involved, especially when the plaintiff and the defendant are brothers. The trial Court did not find any strenuous objection and allowed the application. I do not find any illegality or irregularity in the order of the learned trial



Judge.

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6. In the result, the Civil Revision Petition is dismissed confirming the order passed by the learned Principal District Judge, Kancheepuram, in I.A.No.401 of 2013 in O.S.No.500 of 2004, dated 17.11.2015. No costs. Consequently, connected Miscellaneous Petition is closed.

18.07.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

The Principal District Judge
Kancheepuram at Chengalpattu.



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V.LAKSHMINARAYANAN,J.

Kj

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