



C.R.P. No.2735 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM: **JUSTICE N.SESHASAYEE**

C.R.P. No.2735 of 2018
and CMP.No.16066 of 2018

T.Nagaraj

... Petitioners / Petitioner / 3rd Party

Vs.

1.V.Padmavathi
2.Srinivasan @ Sampath
3.S.Rukmani
4.Sabari Keerthana
5.Janagan
6.A.N.Easwaravel
7.E.Sivakumar
Respondents / Respondents

...Plaintiff, Defendants 1 to 6 /

Prayer : Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decretal order dated 18.06.2018 made in I.A.No.68 of 2018 in O.S.No.325 of 2012 on the file of the District Munsif Court at Palladam.

For Petitioner : Mr.S.Sabarish
for Mr.S.Kingston Gerald

For Respondents : Mr.C.R.Prasanan for R1
R2 to R5 – Left
Mr.S.Prathasarathy for R6 & R7



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ORDER

The revision petitioner is a third party to O.S.No.325/2015 on the file of District Munsif Court, Palladam, which the first respondent herein had laid for declaration of his title and for certain ancillary relief of injunction.

2.The first defendant in the suit is the brother of the plaintiff, the second defendant is the wife of the first defendant, and defendants 3 and 4 are the children of defendants 1 and 2. The defendants 5 and 6 are the purchasers of the property from the first defendant.

3.*Pendentelite* on 19.12.2017, the revision petitioner herein had purchased the property from the 6th defendant. Inasmuch as protecting the warranty of title in his favour, which now depends hugely on his vendor-the 6th defendant, the revision petitioner came out with an application in I.A.No.68 of 2018, to implead himself in the suit.

4. This was resisted by the plaintiff on two grounds :

(a) that the applicant was a *pendentelite* purchaser; and



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(b) that the plaintiff as *dominus litis* is entitled to chose any person with whom he wishes to litigate.

5. Accepting the same, the trial Court dismissed the application and hence this revision.

6.This Court is now informed that the trial of the case has commenced and this Court also comes to know that the dispute as to the valuation of the suit was taken under Order VII Rule 11(b) wherein, the trial Court has passed an order dated 21.12.2018, directing the plaintiff to pay additional Court fee. This is being challenged in CRP.No.1394/2019. And additionally this Court is also informed that the defendants 1 to 4, whose sale has created the present situation, have chosen to remain exparte, something to be expected under circumstances.

7.Given the scenario, this Court considers that the interest which the revision petitioner has obtained as per the sale deed dated 19.12.2017 depends on the co-operation of his vendor, the 6th defendant, in protecting the warranty of his title, and he will be in eternal suspense. It is in this circumstances, this Court deems it appropriate to let the revision petitioner participate in the suit.



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8. The learned counsel for the revision petitioner made a statement on instructions that his client that he is more likely to adopt the written statement of the 5th and 6th defendants. The revision petitioner is now required to file his written statement within a period of two week from today i.e., on or before 24.04.2023.

9. The revision petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

06.04.2023

Index : Yes / No

Speaking order / Non-speaking order
ds



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To:

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1. The District Munsif Court
Palladam.
2. The Section Officer
VR Section, High Court, Chennai.



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N.SESHASAYEE, J.,

ds

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