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C.M.P.No.18188 of 2023

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in S.A.SR.No.61270 of 2023

A.D.JAGADISH CHANDIRA.J.,

This CMP has been filed praying to grant leave to the petitioners to prefer the present Second Appeal against the Judgement and Decree dated 17.07.2018 made in A.S.No.118/2011 on the file of the Principal District Court, Namakkal, reversing the Judgement and Decree dated 26.07.2011 made in O.S.No.69/1999 on the file of the Subordinate Court, Namakkal.

2. Learned counsel appearing for the petitioners would submit that the first respondent had filed a suit for specific performance against all the respondents in O.S.No.69 of 1999 before the Subordinate Court, Namakkal, based on the sale agreement dated 25.11.1996. He would submit that the Suit was dismissed on 26.11.2011. Subsequently, based on the power of attorney given by the 6th respondent, the petitioners have purchased the part of the suit schedule property vide two documents registered on 24.12.2012 and 08.01.2013 before the SRO, Paramathy Velur. Mean while, the first respondent had filed A.S.No.118 of 2011 before the Principal District Court, Namakkal.



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3. During the pendency of the Appeal, none of the contesting party have brought to the knowledge of the Court about the sale executed in favour of the petitioners. Subsequently, the Appeal had been allowed on 17.07.2018 and the petitioners came to know about the judgement passed in the appeal in A.S.No.118 of 2011 only when the police complaint came to be registered against them in Crime No.15 of 2023 dated 17.01.2023. Thereafter, the petitioners came to know that R.E.P.No.4 of 2023 has been filed against them for eviction. He would submit that the petitioners were at no point of time, put on notice about the pendency of the Appeal against the properties. Since the petitioners are interested parties in the proceedings and that if they are not impleaded as parties it will cause prejudice to them; since, they are in possession right from the date of purchase and patta also issued in their name. However without any notice to them, the first respondent had initiated the execution proceedings.

4. Heard Perused the materials available on record.

5. Leave granted.

24.08.2023



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