



C.R.P.No.3665 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE T.V.THAMILSELVI

C.R.P.No. 3665 of 2023

and

C.M.P.No. 22970 of 2023

Chitra

.. Petitioner

Vs

1. Ramachandran

2. Minor. Arjun

Represented by his mother Vanmathi

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order passed by the III Additional District and Sessions Court, Virudhachalam, Cuddalore dated 04.09.2023 passed in I.A.No.1 of 2023 in O.S.No.431 of 2022.

For Petitioner : Mr. A. Mohamed Ismail

For Respondents : Mr. R. Rajavelavan



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ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.1 of 2023 in O.S.No.431 of 2022, the plaintiff preferred this revision.

2. Before the trial Court, the plaintiff filed I.A., under Order 1 Rule 10 CPC, to implead proposed party as second defendant who is claiming right over the suit property based on the settlement deed said to be executed on 08.11.2022. That application was objected by the first defendant, stating that the settlement deed was executed in favour of his minor son, by appointing his wife as the guardian, by the first defendant, who is the absolute owner of the property and also contended that the property pertaining to the settlement deed is no way connected to suit. For the reason that the plaintiff prayed unlawful claim over the property based on the unregistered agreement and thereby, disputing the validity of the agreement also.



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3. Considering both the submissions, the trial Judge held that the settlement deed dated 18.11.2022 was executed after filing of the suit in favour of his son, by the defendant. Therefore, the settlement deed was hit by principle of lis pendens and also besides the relief claimed in the suit, whether the plaintiff is entitled for the relief of specific performance or the document was executed as a security for the loan transaction, it is the only dispute between the parties, therefore, the proposed party need not be a necessary party to the proceedings and accordingly, the petition was dismissed.

4. Challenging the said finding, the petitioner filed this revision.

5. The learned counsel for the revision petitioner submits that after filing of the suit, she came to know that the settlement was executed by the first defendant in favour of his minor son in respect of the suit property. To avoid further complications, she wants to implead his son, as a necessary



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party.

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6. By way of reply, the learned counsel appearing for the respondent submits that as absolute owner, the defendant executed settlement deed in favour of his minor son and no way connected to the suit property.

7. On perusal of the description of the property as well the description of the settlement deed, both are pertaining to the same survey number. Therefore, to avoid further complications, to implead the proposed party, would not cause any prejudice. However, the settlement deed is hit by principle of lis pendens. But by impleading him as proposed party did not cause any prejudice. Therefore, the order passed by the trial Court in I.A.No.1 of 2023 in O.S.No.431 of 2022 on the file of III Additional District and Sessions Court, Virudhachalam, Cuddalore dated 04.09.2023 is set aside and the Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.



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8. If there is any possibility of settling the issue, both the

parties are directed to work out their remedy before the trial Court.

31.10.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The III Additional District and Sessions Court,
Virudhachalam, Cuddalore.



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T.V.THAMILSELVI, J.

AT

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