



CRP(MD).No.434 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.03.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No. 434 of 2022

and

C.M.P(MD).No.1905 of 2022

1.P.S.Perumalsamy
2.P.S.Rajappan
3.P.S.Amsamani
4.P.Pawnthai
5.D.Chellamani
6.V.Annamayil

... Petitioners/Petitioners/Proposed defendants

Vs.

1.P.Chinnaraj ...1st Respondent/1st Respondent/Plaintiff
2.Veerammal @ Chellathai
3.Umamaheswari
... Respondents2&3/Respondents2&3/Defendants 1&2

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 04.01.2022 made in I.A.No.1 of 2020 in O.S.No.146 of 2020 on the file of the Subordinate Court, Theni.

For Petitioners : Mr.P.Arun Jayatram

For Respondents : Mr.A.Jeyaram (for R2)

No representation (for R1)



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ORDER

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The present revision petition has been filed by the third parties to a suit for specific performance challenging an application for impleading themselves in the said suit.

2. The first respondent in the revision petition has filed O.S.No.146 of 2020 as against the other respondents in the revision petition for the relief of specific performance of an agreement dated 21.02.2017 said to have been executed by the defendants in favour of the plaintiff. Pending suit, the revision petitioners had filed I.A.No.1 of 2020 to implead themselves in the said suit on the ground that they are the owners of the suit schedule property, for which, an agreement of sale is said to have been executed. According to the proposed parties, the sale agreement has been entered into collusively without title in order to disturb the proposed parties. Therefore, they had filed an application to get themselves impleaded in the suit. The original plaintiff or the defendants had not filed any counter before the trial Court in the said application. However, the trial Court dismissed the impleading application on the ground that the issue in the suit relates only to the fact whether the sale agreement between the defendants and the plaintiff is



enforceable or not. The other issues cannot be dragged into the said suit.

The plaintiff being the *dominus litus*, he is entitled to file a suit only as against the parties to the agreement. This order is under challenge in the present revision petition.

3. According to the learned counsel appearing for the petitioners/proposed parties, the proposed parties are the original owners of the property. The plaintiff and the defendant have collusively entered into an agreement in order to cause disturbance to the title of the proposed parties. The suit is also a collusive one. According to the learned counsel appearing for the petitioners, unless the proposed parties are impleaded, their title and possession are likely to be disturbed.

4. Per contra, the learned counsel appearing for the plaintiff had contended that this is the suit concerning with the sale agreement entered into between the plaintiff and the defendants and hence, the proposed parties are neither proper parties nor necessary parties.

5. I have carefully considered the submissions made on either side.



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6. Considering the fact that the suit in O.S.No.146 of 2020 is the specific performance suit, only the parties to the agreement or their legal heirs are necessary parties. The third parties, who make a rival claim for title, neither necessary parties nor proper parties. Any decree passed in this specific performance suit will not affect or bind the said proposed parties. Therefore, the impleading application filed by the proposed parties has been rightly rejected by the trial Court.

7. In view of the aforesaid facts, I do not find any illegality or infirmity in the order passed by the trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

02.03.2023

Index : Yes / No
Internet : Yes / No
Rmk

To
The Subordinate Judge, Theni.



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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
CRP(MD).No.434 of 2022

Dated:
02.03.2023