



C.R.P.(MD).No.19 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(PD)(MD)No.19 of 2019

and

C.M.P(MD) No.89 of 2019

M.Jeyabose

... Petitioner/1st Respondent/
1st Respondent/Plaintiff

-vs-

1. G.Subramania Pillai

... 1st Respondent/Petitioner/Petitioner/
Defendant

2. P.Thangapandy Nadar

3. T.S.Mani Nadar

4. Muniyandi Pillai

5. Murugan

... Respondents 2 to 5/Respondents 2 &5
Proposed Party

(Respondents 4 and 5 are given up
in this C.R.P)

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 10.09.2018 passed in I.A.No.44 of 2017 in I.A.No.43 of 2017 in O.S.No.46 of 2017, on the file of the Subordinate Judge, Tiruchendur.

For Petitioner

: Mr.V.Alex Benny Hook
for Mrs.Jessi Jeeva Priya



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For Respondents : No appearance – for R1 and R3
: dismissed for default – for R2
: Given up – for R4 and R5

ORDER

The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the fair and decreetal order dated 10.09.2018 passed in I.A.No.44 of 2017 in I.A.No.43 of 2017 in O.S.No.46 of 2017, on the file of the Subordinate Judge, Tiruchendur.

2. The petitioner herein is the plaintiff before the Court below.

3. For the sake of convenience, the parties will be referred to as per the litigative status before the trial Court.

4. It appears that in the year 2010, the petitioner/plaintiff filed the suit for specific performance based upon the agreement dated 16.10.2008. It appears that subsequent to the filing of the suit, he has also filed an amendment application in I.A.No.1115 of 2012, so as to amend the prayer to include the prayer for delivery of possession. It appears that subsequent to



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ordering of the said application, the defendant has filed impleading application to implead the respondents 2 to 5 being the subsequent purchasers of the suit property.

5. The said application was stoutly contested by the respondents on the ground that only to defeat the plaintiff's claim, such an application has been filed. However, the Court below having considered that the sale deed stood in the name of the respondents 2 and 3 dated 29.12.2011 and 31.01.2012 respectively has allowed the application, only as against the respondents 2 and 3, and dismissed as against the respondents 4 and 5. Aggrieved with the order, the petitioner/plaintiff come before this Court. The only grievance raised by the petitioner is that the subsequent purchasers are not necessary and proper party to the proceedings.

6. Despite the name of the first respondent is printed in the cause list, no one appeared on behalf of him.

7. This Court has given anxious consideration to the submissions of the learned counsel for the petitioner.



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8. From the perusal of the records, it is apparent that the suit was instituted during the year 2010 and as per the order passed in the impleading application in I.A.No.44 of 2017, dated 10.09.2018, which is impugned in this revision petition, the alleged sale transaction in favour of the respondents 2 and 3 took place on 29.12.2011 and 31.01.2012, qua, after the filing of the suit. Therefore, it is apparent that the respondents 2 and 3 are pendente lite purchasers. Therefore, by referring the judgment of the Hon'ble Supreme Court judgment in ***Civil Appeal No.2831 of 2005 (Kasturi Vs.Iyyamperumal and others)*** dated 25.04.2005, this Court is of the view that the pendente lite purchasers are not necessary party in the suit for specific performance. If pendente lite purchasers are impleaded then there is a every possibility that the scope of the suit would be enlarged. Therefore, the order passed by the Court below is contrary to the settled principle of law. Hence, this Court has got a reason to interfere with the order of the learned trial judge.



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9. In the result, this Civil Revision Petition is **allowed**. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Subordinate Judge,
Tiruchendur.



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C.KUMARAPPAN,J.

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