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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **R.VIJAYAKUMAR**

C.R.P.(MD)No.213 of 2014

1.Sankaran Pillai @ A.Murugan
2.Sornam

....Petitioners

Vs

1.Gopalakrishnan
2.Valli
3.Yogheeswaran
4.Chandra
5.Renukadevi

...Respondents

PRAYER: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to allow this Civil Revision Petition and call for the records relating to the order passed by the learned District Judge, Kanyakumari Division at Nagercoil dated 23.07.2013 in I.A.No.84 of 2011 in A.S.No.35 of 2006 and dismiss the same.

For Petitioners	:Mr.N.Dilip Kumar
R1	:Mr.E.V.N.Siva
For R2 to R5	:No Appearance



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ORDER

The present Revision Petition has been filed by the respondents 1 and 2 in A.S.No.35 of 2006 on the file of the District Court, Kanyakumari at Nagercoil.

2.The first respondent in the Revision Petition, as plaintiff, had filed O.S.No.113 of 1990 for the relief of specific performance or in the alternative, refund of the advance amount. The Trial Court has rejected the prayer for specific performance and decreed the alternative prayer. Challenging the same, the plaintiff had filed A.S.No.35 of 2006 and the defendants 2 and 3 had filed Cross.Objection in A.S.No.35 of 2006 challenging the refund of advance amount.

3.Pending first appeal, the defendants have sold a portion of the property to a third party. The plaintiff had filed I.A.No.84 of 2011 in A.S.No.35 of 2006 to implead the said *pendente lite* purchaser as one of the parties to the first appeal. This application was strongly opposed by the defendants. But, the first appellate Court was pleased to allow I.A.No.



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84 of 2011 in A.S.No.35 of 2006. Challenging the said order, the respondents 1 and 2 in the first appeal have filed the present Revision Petition.

4. According to the learned Counsel appearing for the Revision Petitioners, the proposed party is none other than a *pendente lite* purchaser and she does not derive any right out of the said sale and therefore, the Court cannot implead her as a party. She is neither a necessary nor a proper party. The first Appellate Court ought not to have impleaded the proposed party.

5. Per contra, learned Counsel for the first respondent had contended that in order to avoid multiplicity of litigations, the purchaser from the defendants was sought to be impleaded.

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

7. Pending first appeal, the defendants, who are the vendors in the sale agreement, have sold the property in favour of one Renukadevi on



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13.06.2008. Therefore, it is clear that the said proposed party, namely, Renukadevi, is a *pendente lite* purchaser. Further, the sale pending litigation is not void, but only subject to the result of the suit. The plaintiff, by way of abundant caution, had filed the present application to implead the said purchaser in order to avoid multiplicity of litigations and for smooth execution of the specific performance decree, in case, if the appeal is allowed.

8. Therefore, this Court does not find any reason to interfere in the order impleading the proposed party. However, it is made clear that the proposed party being a *pendente lite* purchaser, is bound by the pleadings of her vendors and she cannot take any independent stand in the appeal.

9. With the above observations, this Revision Petition is dismissed.

No costs.

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Index : Yes/No
Internet : Yes/No
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To

1. The District Judge, Kanyakumari Division at Nagercoil.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

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