



CRP(PD)(MD).No.1213 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2023

CORAM

THE HON'BLE MR.JUSTICE **C.KUMARAPPAN**

CRP(PD)(MD).No. 1213 of 2018 and
CMP(MD).No.5147 of 2018

M/s. Max Properties Private Limited
rep. by its Managing Director,
Mr.K. Elango Packiaraj

Petitioner

Vs.

1.A. Kanagalakshmi
2.S.Muthulakshmi
3.R.Dhanalakshmi
4.Kalimuthuammal
5.Ashokumari

Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the Principal Subordinate Judge, Madurai in I.A.No1114 of 2016 in I.A.No.215 of 2015 in O.S.No.124 of 2009, dated 04.01.2018.

For Petitioner : Mr.Radhi Sathish

For Respondent No.1 : Mr.P. Shanmugam

For respondents 2 and 3 : Mr. K. Gokul

ORDER

This Civil Revision Petition has been filed against the order,



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dated 04.01.2018, made in I.A.No1114 of 2016 in I.A.No.215 of 2015 in O.S.No.124 of 2009 on the file of the Principal Subordinate Judge, Madurai.

2. The revision petitioner herein is the 3rd party to the suit. The first respondent herein is the plaintiff and the respondents 2 to 4 herein are the defendants 2 to 4 before the Court below.

3. The learned counsel appearing for the petitioner herein would submit that the petitioner has purchased the property from one N.Ashokumari, who is the 4th defendant in the suit and therefore, they are proper and necessary party to the suit. However, the said petition was resisted by the plaintiff contending that the petitioner is the *lis pendence* purchaser and that they are not proper and necessary party. Since the petitioner being the *lis pendence* purchaser, the Court below has dismissed the application. However, the learned counsel appearing for the petitioner would submit that since they are subsequent purchaser they may be given liberty to work out their remedy in the final decree proceedings.



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4. However, the learned counsel appearing for the respondents strongly objected the submission, stating that as on today, there is no suit pending and preliminary decree has already been passed on 13.08.2014 and thereafter, final decree proceeding also has initiated. It is the further submission that in the final decree proceeding Advocate Commissioner has also been appointed. Therefore, contended that at this stage the petitioner cannot have any remedy before this Court.

6. I have given my anxious consideration to the submissions of the learned counsel appearing on either side and perused the materials available on record.

7. On perusal of the records, it is seen that, the application filed by the petitioner has a prayer to implead them as a party in the suit. Whereas, in the said suit preliminary decree was passed as early as on 13.08.2014 and now, the said suit is at the stage of final decree proceedings. Therefore, the Court below recording the same has dismissed the application. Hence, this Court could not find any infirmity in the order passed by the Court below.



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8. In the result, this Civil Revision Petition stands dismissed.

No costs. Consequently, the connected Miscellaneous Petition is closed.

9. Considering the fact that the petitioner is being a subsequent purchaser from the 4th defendant, as rightly observed by the Court below, whatever the right held by the 4th defendant would definitely will flow to the petitioner herein. Therefore, to workout the equity, the petitioner seek for a liberty to file an application in the final decree proceedings. This Court is inclined to give such liberty. In the event of filing such an application in the final decree proceedings, the Court below is directed to dispose of the same according to it's own merits, without being influenced by any of the observation made in this order.

21.09.2023

Index : Yes / No

Internet : Yes / No

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Principal Subordinate Judge, Madurai.



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C.KUMARAPPAN, J.,

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