



C.R.P.(MD)No.1608 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 12.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD)No.1608 of 2017

and

CMP(MD)No.9094 of 2017

K.Anandakumar ... Petitioner/Petitioner/Plaintiff

Vs.

1.B.Ponnumani

2.B.Vallimalai

3.B.Lakshmanan ... Respondents 1 to 3 / Respondent 1to 3 / Defendants

4.Dhanabakiyam

5.B.Lakshmanan

6.M.Raja

7.C.Arumugam ... Respondents 4to7 / Respondents4to7 /

Proposed Defendants 4 to 7

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order, dated 18.04.2017, passed in I.A.No.211 of 2015 in O.S.No.167 of 2013, on the file of the Principal District Munsif Court, Dindigul.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.H.Lakshmi Shankar for R1 & R3

: No appearance for R2, 4, 6 & 7



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ORDER

The instant Civil Revision Petition has been filed, against the order, dated 18.04.2017, passed in I.A.No.211 of 2015 in O.S.No.167 of 2013, on the file of the Principal District Munsif Court, Dindigul. The revision petitioner herein is the plaintiff, the respondents 1 to 3 herein are the defendants and the respondents 4 to 7 herein are the proposed defendants 4 to 7 before the trial Court.

2. Short facts which give rise to the instant Revision Petition, are that:

The petitioner filed the suit in respect of the suit property situated in S.No.93/7, Thavasimedai Village, for the relief of permanent injunction and for other reliefs. In which, the defendants filed a written statement along with counter claim. In para 9 of the written statement, they pleaded that an extent of 93 ½ cents of the suit property has been sold to one Dhanabackiyam on 16.12.2012. Therefore, the subsequent purchasers are necessary parties to the proceedings.



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3. However, the respondent filed a counter statement stating that the proposed parties cannot be termed as subsequent purchasers as the suit is instituted subsequent to the suit in the year 2013, and also pleaded that no cause of action arose against the proposed parties and therefore, he prayed to dismiss the application.

4. The trial Court after considering the submissions made on either side, dismissed the application on the ground that there is no cause of action against them and the proposed parties cannot be termed as subsequent purchasers.

5. Aggrieved with the order of the learned trial Judge, the revision petitioner / plaintiff has come up with the instant revision.

6. The learned counsel for the revision petitioner would vehemently submit that the very order of the trial Judge is liable to be interfered with on the simple reason that the very impleading application has been filed, based upon the averment in the written statement.



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7. The learned counsel for the petitioner would rely upon the judgment of this Court reported in **2014-4-CTC-814 (V.L.Dhandapani V. Revathy Ramachandran)**. Wherein, this Court held that the purchasers *pendente lite* are proper and necessary parties to the suit.

8. The learned counsel for the respondents 1 and 3 would invite the attention of this Court about the written statement. According to written statement, the 93 ½ cents of the suit properties were sold to one Dhanabackiyam on 16.12.2012. Therefore, the said Dhanabackiyam cannot be termed as *pendente lite* purchaser, when the suit has been filed in the year 2013 and when the property has been sold prior to suit to Dhanabackiyam, in the suit for permanent injunction, no cause of action has been pleaded against the said Dhanabackiyam. Therefore, contended that the dismissal order passed by the trial Judge is a well reasoned order.

9. The learned counsel for the respondents 1 and 3 would submit that while the pendency of the suit, the revision petitioner herein has also



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filed another application in I.A.No.685 of 2018, for impleading some other person, and against the dismissal of the application, when the plaintiff approached this Court, this Court dismissed the application with cost, in **C.R.P.(MD)No.2861 of 2018 (K.Anandakumar V. B.Ponnumani)**, dated 20.03.2019 by heavily condemning the conduct of the petitioner.

10. I have given my anxious consideration to the either side submissions.

11.The point to be considered, is whether the proposed parties are necessary and proper party.

12. According to the pleadings of the respondents the suit property has been sold to one Dhanabackiyam. However, on perusal of the written statement, the sale was effected on 16.02.2012, which is prior to the title deed of the petitioner, namely, the settlement deed, on 12.04.2012. Therefore, when the sale had been effected prior to the suit, in favour of the proposed parties, unless there is some cause of action against the so called subsequent purchasers / proposed parties, their presence is not



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necessary in a suit for bare injunction. Here, it is admitted case that there is no cause of action pleaded in the plaint as against the so called subsequent purchaser/ proposed party. Therefore, as rightly submitted by the learned counsel for the respondent, the proposed parties cannot be terms as a *pendente lite* purchasers. Further, as rightly submitted by the learned counsel for the respondent, when there is no cause of action against the proposed parties, they can't be termed as necessary and property parties.

13. Therefore, the findings of the learned trial Judge in dismissing the application is well considered one and I do not want to interfere with the same. Hence, the instant Civil Revision Petition stands **dismissed**. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Ls

12.07.2023



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To

- 1.The Principal District Munsif Court,
Dindigul.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN.,J.

Is

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