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C.R.P.(PD) No.2597 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD) No.2597 of 2024

AND

C.M.P.No.13641 of 2024

1.A.Chandrasekaran
2.A.Vathchala
3.A.Geetha
4.A.Chennammal

... Petitioners

Vs

K.Deivanayagi Ammal

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 13.10.2023 passed in C.M.A. No.9 of 2020 on the file of the Sub Court, Chengam, against I.A.No.314 of 2016 in O.S.No.90 of 2016 on the file of the Principal District Munsif, Chengam.

For Petitioners : Ms.V.Divia Bharathi

ORDER

This civil revision petition arises against the order dated 13.10.2023 passed by the learned Sub Judge, Chengam, in C.M.A.No.9 of 2020,



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confirming the fair and decreetal order dated 18.02.2017 passed by the learned Principal District Munsif, Chengam, in I.A.No.314 of 2016 in O.S.No.90 of 2016.

2. The suit in O.S.No.90 of 2016 was presented by the respondent herein. It is her case that she purchased item 1 of the suit property on 05.06.1987 and item 2 of the suit property on 31.03.2003. On the basis of the said sale, she had also mutated the revenue records and she is in possession and enjoyment of the properties. On 02.03.2016, the revision petitioners/defendants caused notice on the respondent/plaintiff claiming a share in the suit properties, stating that the suit properties were joint family properties of the defendants and they had presented O.S.No.52 of 2016 seeking partition and separate possession. On account of the fact that her title was denied, the plaintiff presented O.S.No.90 of 2016 seeking declaration of her title and injunction.

3. Pending the suit, she filed an interlocutory application for injunction in I.A.No.314 of 2016. On her side, she marked Exs.P1 to P9 and



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on the side of the defendants, they marked Exs.R1 to R4.

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4. The learned Principal District Munsif, Chengam, on the basis of Exs.P1 and P2 which stand in the name of the plaintiff and the revenue records which are Exs.P3 to P5, came to a conclusion that the plaintiff is in possession of the property and that she satisfied the test of *prima facie* case. The learned Principal District Munsif, Chengam, also took note of the reply notice dated 02.03.2016 issued by the defendants, denying the title of the plaintiff and claiming a share over the suit properties and found balance of convenience in favour of the plaintiff and granted injunction.

5. Against this order, C.M.A.No.9 of 2020 was preferred before the learned Sub Judge, Chengam. The learned Sub Judge, Chengam, concurred with the finding of the learned Principal District Munsif, Chengam and dismissed the C.M.A. Against which, the present civil revision petition has been filed.

6. Heard Ms.V.Divia Bharathi, learned counsel for the civil revision petitioners.



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WEB COPY 7. Ms.V.Divia Bharathi invited my attention to the plaint in O.S.No.52 of 2016 and submitted that though the property stands in the name of the plaintiff, it is actually purchased from and out of the joint family income, consisting of plaintiff's husband and defendants. She further submitted that there is no question of granting injunction at the instance of an other co-owner's wife. Therefore, she pleaded that order of injunction has to be vacated.

8. I have carefully gone through the records and considered the submissions of Ms.V.Divia Bharathi.

9. In order to prove her *prima facie* case, the plaintiff has produced Exs.P1 to P5 and P8 and P9, which pointed out not only her ownership, but, also possession of the property. Therefore, the learned Sub Judge, Chengam, concurred with the decision of the learned trial Judge. The defendants have filed a suit for partition and that is pending. When the title deeds stand in the name of the plaintiff, this *prima facie* proves that she is



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the owner of the properties. No evidence has been let in to dispel this.

Hence, unless and until the plaintiff's right is protected by way of an injunction, there is every possibility that the defendants might dispossess the plaintiff, who is the widow of their brother. I do not find any reason to take a different opinion from the view taken by the learned Sub Judge and the learned Principal District Munsif.

10. Before I conclude, I have to point out that the findings arrived at by the courts below is only for the purpose of disposal of the interlocutory application. It is always open to the defendants to let in evidence before the court that the purchase in the name of the plaintiff was from and out of the funds that has been generated by the joint family. Needless to add that the findings in this revision petition or interlocutory application will not bind the trial Court, at the time of final disposal.

With the above observation, this civil revision petition stands dismissed. No costs. Connected C.M.P. is closed.

19.07.2024

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Index : Yes/No

Neutral Citation : Yes/No

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V.LAKSHMINARAYANAN, J.

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To

1.The Sub Judge
Chengam

2.The Principal District Munsif
Chengam

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