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C.R.P.(PD).No.1757 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1757 of 2018

and

C.M.P.No.9784 of 2018

1.R.Chinnasamy (Died)

2.Pavayammal

3.Punitha

... Petitioners

*(P-1. Viz., R.Chinnasamy vide Court order dated 10.06.2022
made in CMP No.14596 of 2021 in CRP No.1757 of 2018)*

VS

1.Subramaniam

2.Rajamani (Died)

3.Thirumoorthy

4.Valiammal

5.Sudha

1/6



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6.Minor Kanika

7.Minor R.Sarvika

Minors 6 and 7 rep. by their Guardian/Mother Sudha. ... Respondents

(Respondents 4 to 7 brought on record as LR's of the deceased R-2 Viz., V.Rajamani vide Court order dated 10.06.2022 made in CMP No.13216 of 2018 in CRP No.1757 of 2018)

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 14.09.2017 made in C.M.A.No.2 of 2015 on the file of the learned Sub Court, Dharapuram confirming the fair and decreetal order dated 06.01.2015 made in I.A.No.491 of 2013 in O.S.No.178 of 2013 on the file of the learned District Munsif Court, Dharapuram.

For Petitioners : Mr.N.Manokaran

For R1 and R3 : Not Ready in Notice

For R2 : Dismissed

For R4 and R5 : No Appearance

For R6 and R7 : Minors rep. by R5



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ORDER

The Civil Revision Petition is filed challenging the dismissal of the appeal filed by the petitioners 1 and 2 confirming the temporary injunction granted by the Trial Court in I.A.No.491 of 2013 pending disposal of the main suit in O.S.No.178 of 2013.

2. The respondents 1 to 3 herein filed a suit seeking declaration that Settlement Document dated 09.03.2011 executed by 3rd defendant in the suit in favour of petitioners 1 and 2/defendants 4 and 5 was not valid and for consequential injunction restraining the petitioners 1 and 2 herein from alienating or encumbering the suit property. Pending suit, they filed an application in I.A.No.491 of 2013 seeking temporary injunction. The Trial Court was pleased to grant temporary injunction restraining the defendants therein from alienating the suit property on 06.01.2015. Aggrieved by the same, the petitioners 1 and 2 filed an appeal in C.M.A.No.2 of 2015 on the file of the Sub Court, Dharapuram. The First Appellate Court concurred with the findings of the Trial Court and confirmed the order of temporary



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injunction. Aggrieved by the same, the petitioners 1 and 2 have come by way of this civil revision petition.

3. The learned counsel appearing for the petitioners submitted that petitioners 1 and 2 obtained a declaratory decree in respect of suit property in earlier suit in O.S.No.201 of 2011 on the file of the Sub Court, Dharapuram and by suppressing the same, the respondents herein filed the present suit and therefore, they are not entitled to equitable remedy.

4. The judgement and decree passed in O.S.No.201 of 2011 was marked before the Trial Court as Exs.R9 and R10. The Trial Court on perusal of the same, came to the conclusion that the respondents herein/plaintiffs were not party to the earlier suit and hence, the same would not bind them. The Trial Court granted temporary injunction restraining the petitioners herein from alienating the suit property on 06.01.2015 and the said order of temporary injunction has been in operation for the past 10 years till today.



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5. In such circumstances, I do not find anything to interfere with the order passed by the Courts below. Therefore, the Civil Revision Petition is dismissed by confirming the order passed by the Courts below granting temporary injunction in favour of the respondents. However, the Trial Court is directed to dispose of the main suit itself as expeditiously as possible. No costs. Consequently, the connected civil miscellaneous petition is closed.

14.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

1.The Sub Court,
Dharapuram.

2.The District Munsif Court,
Dharapuram.



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S.SOUNTHAR, J.

dm

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