



C.R.P.No. 2641 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

C O R A M:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No. 2641 of 2024

and C.M.P.No.13852 of 2024

Kutty Flush Doors and
Furniture Company Private Limited,
Represented by its Manager
and Authorised Signatory,
Praveen Kumar.P
Having its registered office at
No.37, TNHB Phase III,
Ayapakkam Main Road ICF Colony,
Ambattur,
Chennai – 600 058
Tamilnadu

... Petitioner

Vs.

1.V.Nagarajan
Kamalesh Kumar(Deceased)
Mathivannan (Deceased)
2.Bhavani
3.Devi Priya
4.Poornima
5.K.Anitha
6.K.Krithika
7.K.Shruthi Megha
Respondents

...

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Judgment and decree dated 30.03.2023 passed in O.S.No.3639 of 2020 by the learned XVI Assistant City Civil Court, Chennai as illegal.

For Petitioner : Mr.Sharath Chandran



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ORDER

This Civil Revision Petition is filed as against the decree passed in O.S.No.3639 of 2020 dated 30.03.2023.

2. It is the case of “submit decree”. The Civil Revision Petitioner alleges neither the plaintiff nor the defendants have the right over the property. The plaintiff had already presented a suit for declaration of title and for injunction. He would point out an order in C.S.No.816 of 2016 dated 11.01.2017 where under this Court had granted an order of interim injunction in favour of the civil revision petitioner against the 18th defendant not to interfere in his peaceful possession and enjoyment of the property. Pending that suit, the present suit for bare injunction has been filed, four years later before the City Civil Court, without impleading the civil revision petitioner as a defendant. The learned counsel stated that the decree has been fraudulently obtained. Hence, the revision.

3. In support of his contention, he relied upon the judgment in the case of ***Abdul Rashid Sahib Vs. Ramachandran and another*** in C.R.P.(NPD).No.1 of 2022 dated 27.05.2022 and pleads that the revision is maintainable to set aside the decree.



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4. At the outset, I should state a decree for permanent injunction is one in personam and it will affect only parties to the suit. The petitioner being a third party can always ignore the same and need not labour to set it aside. Nevertheless, if he wants to set aside the same, he has an alternative remedy.

5. While this Court certainly has a jurisdiction to interfere with a decree, the Code of Civil Procedure under Section 96 does not prevent even non-party to file an appeal. That position has also been settled by the judgment of the Division Bench of this court in the case of ***K.Ponnalagu Ammani vs. The State of Madras (1952) SCC Online Mad 300***. Therefore, granting time for the civil revision petitioner till 31.08.2024 to prefer an appeal against the decree, if he so desires, this civil revision petition is dismissed.

6. Since the civil revision petitioner is a third party to the proceeding, if the appeal is preferred before 31.08.2024, the City Civil Court shall not insist upon an application to condone the delay. No costs. Consequently connected miscellaneous petition is closed.

19.07.2024

msv
Index: Yes/No
Internet: Yes/No
Speaking order: Non-speaking order



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Neutral Citation: Yes/No

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V.LAKSHMINARAYANAN,J.

Msv

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