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C.R.P.No.2511 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM
THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2511 of 2024

M.Arul .. Petitioner
Vs.
1. Praveenraj
2. Aswathnarayanan
3. Marappan
4. The Sub-Registrar
Karimangalam, Dharmapuri District. .. Respondents

Prayer: Petition filed under Article 227 of the Indian Constitution, against the order of the learned District Munsif cum Judicial Magistrate at Karimangalam in I.A.No.1 of 2022 in O.S.No.47 of 2023 dated 18.01.2024.

For Petitioner : Mr.S.Sudarshan

For Respondents : Mr.R.Sethuvarayar
/ Caveators for R1 and R2

ORDER

This revision arises against the order of the learned District Munsif cum Judicial Magistrate at Karimangalam in I.A.No.1 of 2022 in O.S.No.47 of 2023 dated 18.01.2024.

2. Heard *Mr.S.Sudarshan*, learned counsel for the petitioner and *Mr.R.Sethuvarayar*, learned counsel for respondents 1 and 2.



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3. The civil revision arises on a very narrow compass. The civil revision petitioner *Mr.Arul* presented a suit for declaration to declare that the unilateral cancellation of the settlement deed executed in his favour by the first defendant *Marappan* (his father), as null and void. Pending the suit, he obtained an order of interim injunction.

4. Originally, a suit was instituted in O.S.No.110 of 2015 before the District Munsif Court at Palacode. In the said suit, an interim order was obtained restraining the first defendant *Marappan* from alienating the property. *Marappan* thereafter entered into an agreement of sale with one *Vasanthan*. *Vasanthan* presented a suit in O.S.No.244 of 2016 on the file of the learned Sub Court at Dharmapuri and obtained a decree on 23.03.2017. Since the decree in O.S.No.244 of 2016 was not complied with, an execution petition was filed in E.P.No.59 of 2017 before the same Court and the sale deed was obtained. After obtaining the sale deed on 03.01.2018, the said *Vasanthan* alienated the property in favour of one *Shanmugam* on 20.03.2018. The said *Shanmugam* sold the property to the first respondent before me *Mr.Praveenraj* on 23.03.2018. Thereafter, *Praveenraj*, in turn, sold the property in favour of *Balan* and *Aswathnarayanan* on 05.02.2021.



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5. Challenging these sales, the civil revision petitioner has already presented a suit in O.S.No.110 of 2015 before the learned District Munsif Court at Palacode. This suit has subsequently been transferred to the file of the District Munsif cum Judicial Magistrate at Karimangalam and was renumbered as O.S.No.47 of 2023. One of the purchasers of the property, *Vasanthan*, the decree holder in O.S.No.244 of 2016, wanted to come on record to contest the suit in O.S.No.110 of 2015, now renumbered as O.S.No.47 of 2023. The said application was allowed, against which the present revision.

6. In a suit which relates to the vital rights in the immovable property, the purchasers of the property from the defendant certainly become proper and necessary parties. This is by virtue of Order XXII Rule 10 of the Code of Civil Procedure, 1908. Whatever rights that *Marappan* had, now stands alienated in favour of *Praveenraj* and *Aswathnarayanan*.

7. *Mr.S.Sudharshan* would contend that the alienation was done at the teeth of the injunction. If that be so, the plaintiff is certainly entitled to proceed against *Marappan* for violation of the order of



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injunction and if he is capable of proving the same, consequences would automatically follow. But, a sale deed executed in violation of the order of injunction through the process of Court cannot be used to prevent the purchasers from coming on record. It is possible that *Marappan*, having alienated his share, will loose his interest in the suit and would not contest the same. In that eventuality, the purchasers of the property would be put into irreparable loss and prejudice. Further, the plaintiff himself has impleaded the purchasers and filed a suit in O.S.No.101 of 2018, now renumbered as O.S.No.375 of 2023.

8. A person who is treated as a proper and necessary party to subsequent suit can certainly come on record in the previous suit. Therefore, I am of the view that the order of the learned District Munsif cum Judicial Magistrate at Karimangalam, impleading the parties, need not be interfered with. However, it has to be clarified that being the purchasers of the property, they cannot take a better right or defence than that have been taken by *Marappan*, since they are *lis pendens* purchasers. If the Court comes to the conclusion that *Marappan* does not have any right, consequently, respondents 1 and 2 would also not have any right.



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9. The learned District Munsif cum Judicial Magistrate at Karimangalam is requested to club O.S.No.47 of 2023 along with O.S.No.375 of 2023 and dispose of both the suits at the earliest, so as to obviate the circumstances of the plaintiff to continue to implead the purchasers of the property pending the litigation.

10. With these above observations, the civil revision petition is dismissed. There shall be no order as to costs.

18.07.2024

Neutral Citation : Yes/No

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To:

1. The Sub-Registrar
Karimangalam, Dharmapuri District.



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V.LAKSHMINARAYANAN, J.

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