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CRP.No.2787 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Civil Revision Petition No.2787 of 2022

1. Baskar
2. R.Ravi
3. R.Mani
4. M.Sankar
Petitioners

...

Vs.

1. T.M.Gopi
2.M.Visawanathan
3. Dodla Venugopal Reddy
4. Dodla Madhusudhana Reddy
5. Dodla Sunil Kumar Reddy
6. Amudha
7. T.K.Marimuthu

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for records and set aside the fair & Decretal order dated 29.03.2022 passed in I.A.No.3 of 2021 in O.S.No.296 of 2019 on the file of the IV Additional District Judge, Thiruvallur at Ponneri.

For Petitioners : Mr.A.Vimalraj

For Respondents : Mr.R.Krishnasamy [R1]



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ORDER

The present civil revision petition arises against the order and decretal order of the learned IV Additional District and Sessions Judge, Ponneri in I.A.No.3/2021 in O.S.No.296/2019.

2.1 The first respondent herein is one T.M.Gopi, who presented O.S.No.296/2019 before the District Court seeking a declaration of title and for consequential relief of permanent injunction against defendants 1 to 5. It is his case that the suit schedule mentioned property belonged to one Doddhla Venugopal Reddy and Doddhla Madhusudhana Reddy. These vendors had appointed one Dodla Sunilkumar Reddy, as their Power of Attorney agent for the alienation of the property on 07.10.2013, vide registered Document No.5445/2013 on the file of Sub Registrar, Gummudipoondi. The plaintiff had purchased the property by way of registered sale deed dated 21.07.2017 and had cultivated paddy in the suit property. It appears that the defendants 1 to 4 had approached the plaintiff for sale of the suit schedule property and when he refused to offer, these defendants caused obstruction to his harvest. As she feared interference from defendants 1 to 4, he instituted the suit seeking the aforesaid reliefs.



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2.2 The first defendant had entered appearance and filed a detailed written statement, and this was adopted by defendants 2 to 4. Defendants 2 and 3 are the brothers of the first defendant. They would admit that the property belonged to Doddhla's family, but would plead that on 25.11.1977, the family members of Doddhla had executed an agreement of sale in favour of one Ramalinga Mudali, and the said Ramalinga Mudali had executed a Will in favour of the first defendant / first revision petitioner herein, and that Ramalinga Mudali had also conveyed certain lands in favour of third parties. It is also pleaded in the written statement that the first defendant had leased the property in favour of the fifth defendant on kuthagai basis. Thus, the allegation of the plaintiff that she is in possession and enjoyment of the property is denied by these defendants, and they inter alia resisted the suit on these grounds.

3. When the matter was posted for trial, an application was filed by the defendants 1 to 4 in I.A.No.3/2021, to implead the vendors of the plaintiff and other members of the Doddhla family including the plaintiff's husband and son. It is pleaded in the application that since the vendors had entered into an agreement of sale with Ramalinga Mudali, they are



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proper and necessary parties to the suit. A counter was filed by the plaintiff resisting this application.

4. It is the categorical case of the plaintiff that the proposed parties are neither necessary nor proper to the suit. He would point out that in exercise of the power of attorney granted by the Doddhla family, the property had been alienated, thereby making him the absolute owner of the same. Hence, impleading the vendors is absolutely unnecessary. It is also pleaded that if the Court comes to the conclusion that the plaintiff is entitled for a declaration of title, it can do so even in the absence of the persons who are sought to be impleaded.

5. The learned trial Judge on the basis of the application and the counter, came to the conclusion that the vendors of the plaintiff are neither necessary nor proper parties to the proceedings and consequently dismissed the application in I.A.3/2021.

6. Challenging the dismissal order in I.A.No.3 of 2021, the present civil revision petition has been presented before this Court by the defendants 1 to 4 / revision petitioners herein.

7. Heard Mr.A.Vimalraj, learned counsel for revision petitioners and Mr.R.Krishnasamy, learned counsel for respondents and perused records.



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8. In a suit for title based on alienation, the presence of vendor is neither essential nor necessary. There is no doubt that the plaintiff has to prove pre-existing title in the vendor, and for the said purpose, the vendor/vendors, as the case may be, need not be arrayed as a party. In case there is any necessity, the plaintiff can summon his vendors as witnesses to the suit. Further, it is not the business of the defendants to dictate that the plaintiff must implead his vendors, as the plaintiff is a dominus litus in a litigation. No person can be forced to litigate at the instance of the defendants.

9. As this Court is of the opinion that the vendors of the plaintiff are not proper and necessary parties to the suit, there is no illegality in the view taken by the learned IV Additional District and Sessions Judge, Thiruvallur at Ponneri in the order passed in I.A.No.3 of 2021 in O.S.No.295/2019, dated 29.03.2022. Accordingly, the civil revision petition stands dismissed. No costs.

19.06.2024

Index: Yes/No
Speaking Order: Yes/No
Neutral Citation: Yes/No
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BATTU DEVANAND, J.

mp

To

1. IV Additional District Judge, Thiruvallur,
Ponneri.
2. The Section Officer
VR Section
Madras High Court.

C.R.P.No.2787 of 2022

19.06.2024