



C.R.P.[NPD].No.4489 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 11.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4489 of 2024

&

CMP.No.25038 of 2024

Veerabagu

. . . Petitioner

Versus

1. Mallika
2. Karunakaran
3. Vasanthi
4. Udayasurian @ Suriya
5. Santhi
6. Devi
7. Mahalakshmi

. . . Respondents

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the fair and decretal Order passed in I.A.No.1 of 2022 in A.S.No.52 of 2018 dated 04.10.2023 on the file of the I Additional Subordinate Judge, Salem and allow this Civil Revision Petition.



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For petitioner : Mr.V.Sairam

ORDER

Challenging the dismissal of the application filed by the revision petitioner to implead himself as a respondent in the first appeal, the present Civil Revision Petition has been filed.

2. The crux of the issue is as follows :

It is the case of the revision petitioner that he has purchased a property on 07.06.1973 from one Mahadevan and others and ever since the date of purchase, he is in possession and enjoyment of the property. However, the respondents 6 and 7 have filed a suit for permanent injunction against the respondents 1 to 5, without impleading the petitioner herein. Hence, the revision petitioner has sought to be implead himself as the respondent in the appeal.

3. The contention of the respondent before the appellate Court is that originally, one Veerapagu purchased the property on 07.06.1973 and he has sold the property in favour of one kandammal, the mother of the respondents 6 and 7 and the mother of the respondents 6 and 7 in turn bequeathed the property in



favour of the respondents 6 and 7 by a Will dated 23.10.1998. The respondents 1 to 5, who are neighbouring land owners, are disturbing the possession of the respondents 6 and 7. Hence, the respondents 6 and 7 have filed a suit for bare injunction restraining the respondents 1 to 5. Considering the nature of the dispute, the appellate Court has dismissed the application filed by the petitioner. Challenging the same, the present Civil Revision Petition has been filed.

4. The revision petitioner seeks right on the basis of the sale deed dated 07.06.1973. Whereas the respondents 6 and 7 claims right over the property on the basis of the original sale deed dated 07.06.1973 executed in favour of one Veerapagu. The property originally belonged to one Mahadevan and others and they sold the property in favour of the said Veerapagu. The said Veerapagu executed a sale deed in favour of one Kandammal, who is the mother of the respondents 6 and 7, on 20.12.1982. Subsequently, the said Kandammal executed a Will bequeathing the property in favour of the respondents 6 and 7. The suit has been filed by the respondents 6 and 7 only for bare injunction. Possession is only sine quo non for seeking such a relief. Whereas the petitioner seeks to establish his right on the basis of the sale deed dated 07.06.1973. If at all the petitioner wants



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to establish his right over the property, it is for him to file a suit for declaration and the judgment and decree in the suit filed for bare injunction will not have any impact and will not bind the revision petitioner. When there is no cause of action against the petitioner, the petitioner, as a matter of right, need not be impleaded in the proceedings. Hence I do not find any merits to interfere with the Order of the first appellant Court. If at all, the petitioner is advised, he may file a suit for declaration.

5. With the above observation, this Civil Revision Petition is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

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N. SATHISH KUMAR, J.

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