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C.R.P.(PD).No.2398 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2398 of 2017

and

C.M.P.No.11300 of 2017

Venkatesa Pillai (died)

1.Muthukrishnan

2.Duraiaraj

Damodaran (died)

3.Vijaya @ Kokila

4.Minor Vanitha Shree

... Petitioners

VS

1.S.Moses

2.A.Santhi

3.Munusway Nadar

... Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 24.03.2017 in I.A.No.295 of 2017 in O.S.No.175 of 1998 passed by the learned Principal District Munsif, Alandur.

For Petitioners : Mr.T.M.Mano

For R2 : Mr.A.Palaniappan

For R1 and R3 : Dismissed vide Court

ORDER

When the matter was taken up for hearing on 13.03.2024, the learned counsel, who entered appearance for the petitioners submitted that he had handed over papers to the petitioners along with change of vakalat. He has also made an endorsement to that effect in the court bundle. Recording the same, this Court directed the Registry to remove the name of the counsel who entered appearance for the petitioner and to list the matter under the caption 'For Dismissal' on 14.03.2024 by printing the names of the petitioners.



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WEB COPY 2. Today, the matter appeared in the list under the caption 'For Dismissal' by printing the names of the petitioners.

3. When the matter was called, Mr.T.M.Mano, learned counsel submitted that he has got instruction and vakalat to appear for petitioners. Therefore, he was allowed to make submission on behalf of the petitioners.

4. It is seen from the records that the civil revision petition was already dismissed as against the respondents 1 and 3 for failure of the petitioner to pay batta as per the order dated 08.02.2023. The civil revision petition is alive only as against the 2nd respondent.

5. The petitioners herein filed a suit for permanent injunction. When the suit was posted for argument after closure of evidence on both sides, this application has been filed by the petitioners seeking to reopen the case so as to examine one Malarvasan and his daughter Udayabanu to whom small portion of the suit property was sold by the petitioners by way of registered



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Sale Deed dated 19.09.2002. The said application was dismissed by the Trial Court. Aggrieved by the same, the petitioners are before this Court.

6. The learned counsel for the petitioners submitted that the person, who purchased the property pending suit, had put up construction in the suit property and to prove the same, the examination of transferee is very much essential.

7. It is settled law in a suit for permanent injunction, the possession of the plaintiff on the date of filing of the suit alone is relevant. Even according to the admitted case of the petitioners, a portion of the suit property was sold by them to one Malarvasan and Udayabanu pending suit on 19.09.2002. In such circumstances, any alternation in the physical features subsequent to filing of the suit would not have any bearing on the final outcome of the suit in a suit for permanent injunction. In such circumstances, the Trial Court rightly came to the conclusion that petitioners have not made out any case for reopening of the case.



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8. Accordingly, the Civil Revision Petition is dismissed. No costs.

WEB CON Consequently, the connected civil miscellaneous petition is closed.

14.03.2024

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

To

The Principal District Munsif,
Alandur.



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S.SOUNTHAR, J.

dm

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