



CMP.No.21690 of 2022 in Rev.Appl.SR.No.138002 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.01.2024

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

C.M.P.No.21690 of 2022 in
Rev.Appl.SR.No.138002 of 2022

N.Balakrishnan

... Petitioner/Review Petitioner

Vs.

1. K.Sakunthala
2. K.Doss (Died)
3. K.Vasu
4. K.Rosaiya
5. K.Yesu
6. Kanchana
7. Ranjithkumar
8. Minor.Sathishkumar
- Minor Rep. by Mother 6th Respondent
9. A.A.Arughathoss
10. V.Kasthuri
11. Thiagarajan

...Respondents/Respondents

PRAYER: Civil Miscellaneous Petition is filed under Section 151 of Civil Procedure Code, to grant leave to file the review against the impugned order dated 29.03.2021 passed in C.R.P.No.4144 of 2014 before this Hon'ble Court.



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For Petitioner : Mr.Arun C.Mohan

For Respondent 9 : Mr.D.Ravichander

ORDER

This Civil Miscellaneous Petition has been filed to grant leave to file the review against the impugned order dated 29.03.2021 passed in C.R.P.No.4144 of 2014 before this Court.

2. The respondents 1 to 8 have filed C.R.P.(PD).No.4144 of 2014 as against the fair and decreetal order passed in I.A.No.42 of 2013 in O.S.No.83 of 2012 on the file of the III Additional District Judge, Poonamallee dated 28.02.2014, thereby dismissed the petition filed to reject the plaint. The 9th respondent herein filed a suit as against the respondents 1 to 8 herein in O.S.No.83 of 2012 for declaration and for recovery of possession in respect of the suit property. While pending the suit, the respondents 1 to 8/defendants filed application to reject the plaint and the same was dismissed by an order dated 28.02.2014. Aggrieved by the same, the respondents 1 to 8 preferred Civil Revision Petition before this Court. While pending the said revision



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petition, the petitioner herein filed an application to implead himself as plaintiff before the trial court in O.S.No.83 of 2012 on the file of III Additional District Court, Poonamallee. The same was allowed by the trial court. However, the petitioner was impleaded as defendant in the suit. While pending the civil Revision Petition, compromise was entered between the respondents 1 to 8 and the 9th respondent herein. This Court recorded the joint compromise memo dated 29.03.2021 and directed the parties to appear before the trial court and produce the joint compromise memo dated 29.03.2021. On receipt of the same, the trial court was directed to pass decree in accordance with joint compromise memo filed by the parties. The said joint compromise memo shall form part of the order. Accordingly, the trial court decreed the suit as per the joint compromise memo dated 29.03.2021.

3. On perusal of the affidavit filed in support of the impleading petition of the petitioner herein before the trial court in I.A.No.17 of 2014 in O.S.No.83 of 2012, revealed that the petitioner has 80% of share in the suit property, since he only paid the entire court fees for filing the suit. The 9th respondent herein did not have sufficient amount since he has retired. That



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apart, the 9th respondent is a very close friend of the petitioner and there was oral agreement between them in respect of purchasing the property, since the petitioner has 80% share in the suit property. However, by way of compromise, the 9th respondent handed over all original documents in favour of the respondents 1 to 8 and denied the right over the property in favour of the petitioner. Even assuming that the petitioner has 80% share over the suit property, the petitioner ought to have proceeded as against the 9th respondent herein separately by way of civil proceedings. There is absolutely no cause of action and no locus for the petitioner to review the order passed by this Court. Though, he is a party in the suit, he is not the party in the Civil Revision Petition which was ordered by this Court. The petitioner is claiming right over the property by oral agreement. He ought to have filed suit for specific performance as against the 9th respondent in the manner known to law if so advised.

4. Therefore, petitioner is completely stranger to the property and no way connected to the suit property. Hence, this court is not inclined to grant leave to file review petition as against the order passed by this Court in C.R.P.No.4144 of 2014 dated 29.03.2021.



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5. Accordingly, this Civil Miscellaneous Petition is dismissed.

Consequently, connected Review application in Rev.Appl.SR.No.138002 of 2022 is rejected at the SR stage itself. No costs.

23.01.2024

Index : Yes / No

Internet : Yes / No

Speaking order /Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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