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C.R.P.(PD).No.4995 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4995 of 2024

and

C.M.P.No.28074 of 2024

Mr.Anandan

... Petitioner

Versus

1.Mr.Vinoba

2. Mr.Manikandan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair order and decretal order dated 19.06.2023 passed by the learned Subordinate Judge, Chidambaram in I.A.No.720 of 2022 in O.S.No.16 of 2021, dismissing the same.

For Petitioner : Mr.G.K.Gaarkey Chandar



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ORDER

This Civil Revision Petition challenges the order dated 19.06.2023 in I.A.No.720 of 2022 in O.S.No.16 of 2021 passed by the learned Subordinate Judge, Chidambaram.

2.The civil revision petitioner is the defendant in the suit. The suit in O.S.No.720 of 2022 is one for specific performance for agreement of sale dated 13.02.2020. The defendant was served with the summons. He has also filed a detailed written statement. According to him, the agreement for sale was entered into, not for the purpose of any transactions relating to an immovable property, but only as a security at the instance of one Mr.Manikandan, who is the uncle of the plaintiff. He took out an application to implead the said Manikandan as a party to the suit. This application was dismissed by the learned Trial Judge. Hence, this revision.

3. I heard Mr.G.K.Gaarkey Chandhar for the civil revision petitioner. He urges that since the entire agreement came into being on account of the



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proposed party. Therefore, his presence is proper and necessary to the proceedings, He relied upon the Judgment of this Court ***P.Ranjithkumar Vs. Baskar and Ors , 2022 SCC Online Mad 1828***. He pleads that the dismissal of the application by the learned Trial Judge is erroneous and requires to be revised.

4. I have considered the submissions of Mr.G.K.Gaarkey Chandhar and also gone through the records.

5. The position of law has been settled by the Supreme Court in ***Kasturi Vs. Iyyamperumal & Ors,2005 (2) CTC 676***, wherein the Supreme Court has held that in a suit for specific performance , only the parties to the contract are proper and necessary parties. It further held that the presence of any third party to the proceedings is absolutely unnecessary. Having come to that finding, it reversed the Judgment of this Court, holding that third party in the suit for specific performance can be impleaded as a party.



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When the position of law is clear, I find no necessity to revise the order passed by the learned Trial Judge. It is always open to the defendant, if he so desires, to summon Mr.Manikandan as a witness to the suit. However, he is neither necessary nor proper party in the suit for specific performance.

6. With the above observation, this civil revision petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

18.12.2024

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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no



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To

The Subordinate Judge, Chidambaram.



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V.LAKSHMINARAYANAN, J.

arr

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