



C.R.P. (PD) No.5101 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.5101 of 2024
and C.M.P.No.28590 of 2024

S.Devan

.. Petitioner

Versus

1.Kalajayachandran
2.M/s.S.V.R.Builders and Promoters,
Represented by its Proprietor,
Mr.S.V.Ravichandran

3.Raja Ravi Shekhar

4.Nina

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.No.4 of 2022 in O.S.No.2317 of 2020 dated 20.09.2024 passed by the XV Additional City Civil Court at Chennai.

For Petitioners : Mr.P.K.Ganesh

For Respondents : Mr.T.S.Baskaran



C.R.P. (PD) No.5101 of 2024

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ORDER

This civil revision petition challenges the order passed by the learned XV Additional City Civil Court, Chennai in I.A.No.4 of 2022 in O.S.No.2317 of 2020 dated 20.09.2024.

2. The civil revision petitioner is a third party to the suit. O.S.No.2317 of 2020 was originally presented before this Court as CS.No.760 of 2010. The relief sought for in the suit is as follows:

“i) For permanent injunction restraining the defendants, their men and agents or any other person claiming under him from in any manner interfering with the peaceful possession and enjoyment of the suit properties by the plaintiff.

ii) For permanent injunction restraining the defendant, their men and agents or any other persons claiming under him from in any manner encroaching upon the 40' road on the east of the suit properties.”

3. The claim of the petitioner is that the property fell to one Indira by virtue of family settlement entered into between the members of one S.A.Gopal Iyer's family. S.A.Gopal Iyer had purchased the property from S.Muthukrishna



C.R.P. (PD) No.5101 of 2024

Iyer, who had owned a larger extent of land. The latter laid out the property and sold them as plots. The plaintiff claimed that on 21.08.2010, one S.V.Ravichandran interfered with her possession and therefore, he presented the suit for the aforesaid reliefs.

4. Summons were served to Mr.S.V.Ravichandran. He entered appearance. He stated he is only a power agent of one Ganapathi Santha Roche and that the said Roche cancelled the power deed. The plaintiff, therefore, take steps to implead the said Roche. At that stage, it came to the knowledge of the plaintiff that Roche was no more. Therefore, she sought leave of the court to implead the legal representatives of the said Roche. This was allowed and they were impleaded as the third and fourth defendants to the suit.

5. Due to the enhancement of the pecuniary jurisdiction, C.S.No.760 of 2010 stood transferred to the file of the city civil court and it was renumbered as OS.No.2317 of 2020. The matter is said to be listed for trial on 09.01.2025.



C.R.P. (PD) No.5101 of 2024

WEB COPY

6. The civil revision petitioner claimed that Ms.Roche executed a power of attorney in favour of one Krishnappa on 09.08.2016. The said Krishnappa had sold the property to him on 22.11.2017. Therefore, he claimed that he is a necessary party to the suit and filed an application to implead.

7. Both the plaintiff and the legal heirs of Mrs.Roche resisted the impleading application.

8. According to them, the sale deed, on the basis of which the third party claims a right, was itself declared as a fraudulent document by the District Registrar on 10.08.2021. The appeal preferred therefrom was also dismissed on 30.06.2023. They pointed out that the civil revision petitioner has no right, title, or interest over the property and therefore, he is not a proper or necessary party to the suit.

9. The learned Trial Judge, after considering the affidavit and counter, came to a conclusion that the civil revision petitioner is not a necessary party and therefore, dismissed the application. Hence this revision.



C.R.P. (PD) No.5101 of 2024

WEB COPY

10. I heard Mr.P.K.Ganesh for the civil revision petitioner and Mr.T.S.Baskaran for the contesting respondent/plaintiff.

11. Mr.P.K.Ganesh submits that as the civil revision petitioner has purchased the suit property, hence he is a proper and necessary party to the proceedings.

12. Per contra Mr.T.S.Baskaran states that it is not open to the petitioner to prove his title in the suit presented by him. He also invites my attention to the fact, that the revision petitioner, after the dismissal of the application to implead, has filed a suit in O.S.6132 of 2024 on the file of the XVII Assistant City Civil Court at Chennai. Hence, he prays for confirmation of the order.

13. I have carefully considered the submissions of Mr.P.K.Ganesh and Mr.T.S.Baskaran.

14. The narration of the aforesaid facts would show that the case of the plaintiff is that she fears dispossession at the hands of Mr.Ravichandran. Since Mr.Ravichandran pleaded that the power of attorney, on the basis of which he



C.R.P. (PD) No.5101 of 2024

staked a claim to the property, had been cancelled; the plaintiff impleaded his Principal-Mrs.Roche. Mrs.Roche died and therefore, her legal representatives were impeded with the permission of the court.

15. The entire case is predicated on the fact that the plaintiff has the right over the property, and the defendant does not. On the strength of her title, the plaintiff pleads that she is entitled to be in possession of the property. This fact is resisted by the defendant by filing a written statement. The plaintiff initiated litigation only against the alleged unauthorized activities of Mr.S.V.Ravichandran and subsequently, against Roche and on her death, her children, namely, Raja Ravi Shekhar and Nina.

16. At no point of time, the plaintiff pleaded that the civil revision petitioner is interfering with her possession. If the civil revision petitioner were to be impleaded, then the plaintiff will be called upon to fight against the civil revision petitioner, whom she never contemplated, at the time of presentation of the suit. The issue in this suit is only related to the alleged interference by Mr.S.V.Ravichandran, Mrs.Roche and now, her children. Impleading a person against whom the plaintiff has no claim would only embarrass the trial.



C.R.P. (PD) No.5101 of 2024

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17. Apart from that, a person should be considered a necessary party, only if, without his presence, the court will not be in a position to render an effective judgment in the suit. That not being the situation in the present case, I do not find any reason to set aside the order passed by the learned XV Assistant City Civil Court, Chennai, which has been impugned before me.

18. I have to take note of the submissions of Mr.P.K.Ganesh that Roche had executed a power of attorney in favour of one Krishnappa and from Krishnappa, he further purchased the property. It is not in dispute that he has already presented a suit claiming injunction on the basis of this very sale deed in O.S.No.6132 of 2024.

19. Mr.P.K.Ganesh points out that the plaintiff in this suit, is a defendant in another suit, and therefore, in order to arrive at the right conclusion, both suits would have to be tried by way of simultaneous trials, not a joint trial.

20. I find force in this submission. Accordingly, in exercise of the



C.R.P. (PD) No.5101 of 2024

powers vested under Article 227 of the Constitution of India, O.S.No.6132 of 2024 on the file of the XVII Assistant City Civil Court is transferred to the file of the XV Additional City Civil Court at Chennai.

21. The XV Additional City Civil Court, Chennai shall try O.S.No.2317 of 2020 and O.S.No.6132 of 2024. The trial may proceed simultaneously. Evidence however shall be recorded separately in both suits.

22. With the above observation, this civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

20.12.2024

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Index : Yes / No
Internet: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No



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C.R.P. (PD) No.5101 of 2024

To

- 1.The XV Additional City Civil Court at Chennai
- 2.The XVII Assistant City Civil Court, Chennai



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C.R.P. (PD) No.5101 of 2024

V.LAKSHMINARAYANAN, J.

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Civil Revision Petition (PD) No.5101 of 2024

20.12.2024