



WEB COPY



C.R.P.(PD).No.4813 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.4813 of 2024 &
C.M.P.No.26896 of 2024

S.Sivakumar

... Petitioner

-Versus-

1.B.Muthukumaran

2.Periyasamy

3.Ganasekaran

4.Krishnamoorthy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 29.07.2024 made in I.A.No.4 of 2023 in O.S.No.358 of 2022 on the file of the learned Additional District Court, Krishnagiri.

For Petitioner : Mr.N.Manoharan

ORDER

This civil revision petition arises against the order passed by the learned Additional District Judge, Krishnagiri in I.A.No.4 of 2023 in O.S.No.358 of 2022 dated 29.07.2024. The civil revision petitioner is a third party to the suit.



C.R.P.(PD).No.4813 of 2024

WEB COPY 2. O.S.No.358 of 2022 is a suit filed for the following reliefs:

- “ a. declaring the plaintiff as title holder for the suit property;
- b. declaring the partition deed executed among defendants with respect to suit property vide Doc.No.409 of 2020 dated 11.05.2020 on the file of SRO, Barur as null and void and not binding on the plaintiff;
- c. granting permanent injunction thereby restraining the defendants, their men, agents etc. from disturbing the peaceful enjoyment and possession of plaintiff over the suit property; and
- d. granting permanent injunction thereby restraining defendants from alienating or encumbering the suit property to third persons.”

3. The civil revision petitioner claims that he had entered into an agreement of sale with the plaintiff in O.S.No.358 of 2022 and his two sons on 22.08.2022. Since they did not execute a sale deed in terms of the agreement of sale dated 22.08.2022, he presented O.S.No.116 of 2023 for specific performance of the aforesaid agreement of sale. In the mean time, he came to know that the agreement holder had filed the present suit for title. According to him, the plaintiff and the defendants in O.S.No.358 of 2022 conspired with one



C.R.P.(PD).No.4813 of 2024

another to defraud the petitioner of his rights. Hence, he filed an application in

I.A.No.4 of 2023 to implead himself in O.S.No.358 of 2022.

4. The learned Trial Judge ordered notice to the plaintiff and the defendants. The plaintiff did not file any counter.

5. The third defendant filed a counter, which was adopted by the defendants 1 and 2. In the said counter, they pleaded that the plaintiff had no right, title or interest to deal with or alienate the property in favour of the petitioner. In any event, as the petitioner is only an agreement holder, he would not have a right to be impleaded as a party to the suit.

6. The learned Trial Judge, after considering the petition and counter, dismissed the impleading application . Hence, the present revision.

7. I have heard Mr.N.Manoharan for the civil revision petitioner.

8. Mr.N.Manoharan argues that in case the plaintiff in O.S.No.358 of 2022 were to leave the suit for default, it would adversely affect his right. He states that in the event, he obtains a decree in O.S.No.116 of 2023, he would not



C.R.P.(PD).No.4813 of 2024

be in a position to enjoy the fruits of the said decree. As his rights are inextricably connected with the rights of the plaintiff, he is a proper and necessary party to the said proceeding.

9. I have carefully considered the plea of Mr.N.Manoharan and have gone through the records.

10. In order to implead a person, as a party to a proceeding, he should be a person without whom the court cannot completely adjudicate the suit. As of today, the civil revision petitioner is only an agreement holder. In terms of Section 54 of the Transfer of Property Act, an agreement holder does not have any interest over the property. This is because, an agreement continues to be in the realm of contract, whereas the transfer of title is under the Transfer of Property Act. As on today, the civil revision petitioner has no right over the property and hence, his presence is unnecessary.

11. Insofar as the plea of Mr.N.Manoharan, that in case he obtains a decree in his suit, it would be rendered as a paper decree is concerned, I feel that this fear is totally unfounded. This is because in case the suit in O.S.No.116 of 2023 is decreed, the plaintiff in that suit would get a right over the property



C.R.P.(PD).No.4813 of 2024

only on and from the day, the decree is passed i.e., on the date in which the agreement of sale merges with the decree passed by the court. It is on that date, the civil revision petitioner can stake the claim over the property. Till that time, he is a mere agreement holder. Even if O.S.No.358 of 2022 is dismissed for default, the civil revision petitioner can always present a fresh suit for title thereafter, in case he succeeds in his suit. This is because he becomes a title holder, as pointed out above, only when he obtains the decree in the suit for specific performance.

12. In the light of the above discussion, I do not find the presence of civil revision petitioner is necessary in O.S.No.358 of 2022. This civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

03.12.2024

nl

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order

To



C.R.P.(PD).No.4813 of 2024

1. The Additional District Court, Krishnagiri.

WEB COPY



WEB COPY



C.R.P.(PD).No.4813 of 2024

V.LAKSHMINARAYANAN, J.

nl

C.R.P.(PD).No.4813 of 2024

03.12.2024