



C.R.P.(PD)(MD)No.221 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P.(PD)(MD)No.221 of 2022

and

C.M.P.(MD)No.987 of 2022

E.P.P.Ganesan

... Petitioner/Petitioner/3rd Party

vs.

1.Elangavathi

2.Dakshinamoorthy

... Respondents/ Respondents/Plaintiff
and Defendant

Prayer:- Civil Revision Petitions filed under Section 227 of the Constitution of India, to set aside the Fair and Decreetal order passed in I.A.No.459 of 2018 in O.S.No.71 of 2014 on the file of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi, dated 07.09.2021.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.J.Parekh Kumar for R1

Mr.J.Barathan for R2



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ORDER

The Civil Revision Petition arises out of the fair and decreetal order passed by the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, dated 07.09.2021 in I.A.No.459 of 2018 in O.S.No.71 of 2014.

2.The said O.S.No.71 of 2014 is filed by the plaintiff, Elangavathi against one Dakshinamoorthy. The prayer in the suit is to declare that the plaintiff is the owner of the property and to declare the document No.450 of 2012 executed by the defendant as null and void and for a consequential permanent injunction from interfering with her possession. The said suit is resisted by the said Dakshinamoorthy by filing a written statement. He is claiming title in respect of the said property. The suit having ripen for trial, already PW1 was examined and cross examined and PW2 was in the witness box, the present I.A.No.459 of 2018 is filed by the petitioner, E.P.P.Ganesan, who is a



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third party to the suit. It is his claim that actually the suit property belongs to him. The trial Court considered the impleading application and held that when the suit is a *lis* inter-parties between the plaintiff and the defendant, it may not bind the third party and it will not affect his rights if at all, if there is any. Even to consider his impleading application, no documents were produced before the trial Court and the trial Court found that just for the mere asking a third party cannot be implemented and dismissed the petition. Aggrieved by the said order, the present revision is filed.

3.*Mr.T.Selvan*, learned counsel appearing on behalf of the petitioner, *Mr.J.Parekhkumar*, learned counsel appearing on behalf of the first respondent and *Mr.J.Barathan*, learned counsel appearing on behalf of the second respondent.

4.The learned counsel appearing on behalf of the petitioner would submit that when the petitioner's claim is that the suit property



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belongs to him, in order to avoid multiplicity of proceedings, it was just and necessary that the petitioner could have been permitted to be included as a defendant in the suit. As far as the documents are concerned, he is ready to produce the documents even before this court.

5.The said submissions were resisted by the learned counsel appearing on the other side and submitted that the petitioner is a third party to the *lis* and he need not be impleaded to the suit.

6.I have considered the rival submissions made on either side and perused the material records of the case.

7.When the suit for declaration and setting aside the document is a *lis* inter-parties between the original plaintiff and the defendant, the same is not binding on the petitioner, who is a third party to the suit and when the plaintiff being a *dominus litis* did not think it fit to



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disclose any cause of action as against him and did not implead him in the suit, at the instance of the petitioner, he need not be impleaded in the suit. Especially the trial Court has also found that not even a semblance of document is produced by him. Moreover, the rights of the petitioner/third party are reserved by the trial court. If at all, the petitioner is aggrieved and apprehensive that the plaintiff or the defendant in the suit may interfere with his property, he is at liberty to agitate by way of a separate suit. The suit is filed in the year 2014 and is in the advanced stage of trial.

8.Considering all the above, the civil revision petition is without any merits and as such, is dismissed. No cost. Consequently, connected miscellaneous petition is closed.

08.07.2024

NCC : Yes / No
sji

To

The District Munsif cum Judicial Magistrate Court,
Cheranmahadevi.



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D.BHARATHA CHAKRAVARTHY, J.

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