



C.R.P.(MD)No.2313 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2313 of 2024
and
C.M.P.(MD)No.13130 of 2024

J.Maseeswaran

... Petitioner / Respondent / Defendant

Vs.

1.Nacharammal

2.Venkatraman

... Respondents / Petitioners / Plaintiffs

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 25.09.2023 filed in I.A.No. 3 of 2022 in O.S.No.182 of 2017 on the file of the learned Additional District Musnif Court, Lalgudi.

For Petitioner : Mr.M.Kathiresan

ORDER

Heard the learned counsel appearing for the revision petitioner.



C.R.P.(MD)No.2313 of 2024

WEB COPY

2. The defendant in O.S.No.182 of 2017 on the file of the Additional District Munsif Court is the revision petitioner herein. The suit was filed by the respondents herein for declaration and permanent injunction. The suit schedule encompass as many as 9 items of properties. Originally, an exparte decree was passed. Based on the same, the plaintiffs had alienated item No.1 of the suit schedule in favour of one Ramajeyam. Subsequently, the exparte decree was set aside. At this stage, the plaintiffs filed I.A.No.3 of 2022 for deleting Item No.1 from the suit schedule. It was allowed vide order dated 25.09.2023. Questioning the same, this civil revision petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds of revision. He called upon this Court to set aside the impugned order and grant relief as prayed for.

4. I am not swayed by the said submission. The reason is simple. It is always open to the plaintiffs to abandon their case either wholly or partly. As already noted, the suit schedule contains 9 items. The plaintiff wants to delete the first item. By doing so, the character of the suit is not altered in any way. Of-course, the title document standing in favour of the defendant / petitioner



C.R.P.(MD)No.2313 of 2024

herein has not been set aside till date. As a result, the title of the purchaser namely Ramajeyam may be under a cloud. This is a matter to be worked out between the revision petitioner on the one hand and Ramajeyam on the other. Either the petitioner may file a suit against Ramajeyam for cancelling his document or Ramajeyam may file a suit against the petitioner for asserting his title of the property.

5. On that score, amendment sought for by the plaintiffs in this suit cannot be denied. I am more than satisfied that the amendment permitted by the court below does not in any way affect the rights of the revision petitioner herein. In this view of the matter, I decline to interfere. The impugned order is sustained. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi

To:

The Additional District Musnif Court, Lalgudi.



WEB COPY



C.R.P.(MD)No.2313 of 2024

G.R.SWAMINATHAN, J.

rmi

C.R.P.(MD)No.2313 of 2024

25.09.2024