



C.R.P(PD)(MD)No.2215 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(PD)(MD)No.2215 of 2022

and

C.M.P.(MD)No.10344 of 2022

Govintharajan

... Petitioner/4th Respondent/
Proposed Defendant

vs.

1.Ramesh

... 1st Respondent/Petitioner/
Plaintiff

2.A.Dhanalakshmi

... 2nd Respondent/1st Respondent/
1st Defendant

P.Balasubramaniyan (Died)

3.Renganathan

... 3rd Respondent/3rd Respondent/
3rd Defendant

Prayer:- Civil Revision Petition filed under Section 227 of the Constitution of India, against the fair and decreetal order dated 30.08.2022 passed by the Additional District Munsif Court, Kumbakonam in I.A.No.101 of 2020 in O.S.No.168 of 2013.

For Petitioner

: Mr.K.Sudalaiyandi

For Respondents

: Mr.K.C.Ramalingam for R1

No Appearance for R2 & R3



C.R.P(PD)(MD)No.2215 of 2022

WEB COPY

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 30.08.2022 made in I.A.No.101 of 2020 in O.S.No.168 of 2013 passed by the Additional District Munsif Court, Kumbakonam.

2.1.Perusal of the material records of the case reveals that O.S.No.168 of 2013 was filed by the first respondent herein for a bare injunction. He has filed the suit against three defendants. It is his case in the plaint that he is the owner of the property. He has executed a mortgage deed and delivered possession to the third defendant. The third defendant is in possession of the suit schedule property. However, the first and second defendants on a particular date came to him and threatened to interfere with his possession and disclosing such a cause of action, a bare injunction suit is filed. The injunction is prayed as against the defendants 1 and 2.



C.R.P(PD)(MD)No.2215 of 2022

WEB COPY

2.2.It is the case of the defendants that no such cause of action arose on 25.04.2023 and the defendants are residing in the suit property. However, it is seen that the suit property was sold by the defendants even two months prior to the filing of the suit by a sale deed dated 20.02.2013. Therefore, even if the plaintiff pleads that he did not have knowledge about the sale, it can be seen that the suit is one for a bare injunction against the defendants 1 and 2 with reference to the specific cause of action as disclosed in the plaint. Eventhough an application to implead is filed, no other application to amend the relief is filed. The petitioner herein can never be a necessary or proper party in respect of the cause of action as disclosed in the plaint and the relief as prayed for in the plaint. The trial Court erred in allowing the application for impleadment.

3.The learned counsel for the first respondent would submit that an application is filed only to implead as a party and all the contentions can be raised before the trial Court and the trial Court can consider the same.



C.R.P(PD)(MD)No.2215 of 2022

WEB COPY

4.I am of the view that such a contention cannot be countenanced on the facts and circumstances as narrated *supra*, when the suit is only filed for a bare injunction that too by disclosing a specific cause of action. In view thereof, the Civil Revision Petition is allowed. The fair and decreetal order dated 30.08.2022 made in I.A.No.101 of 2020 in O.S.No.68 of 2013 is set aside and consequently, I.A.No.101 of 2020 shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.07.2024

NCC : Yes / No
sji

To

The Family Court, Ramanathapuram.



WEB COPY



C.R.P(PD)(MD)No.2215 of 2022

D.BHARATHA CHAKRAVARTHY, J.

sjj

C.R.P.(PD)(MD)No.2215 of 2022
and
C.M.P.(MD)No.10344 of 2022

15.07.2024