
(2012) 11 MAD CK 0212

In the Madras High Court

Case No : C.R.P. (PD) (MD) No. 1892 of 2012 and M.P. (MD) No. 1 of 2012

Palanivelu and Chinthamani

APPELLANT

Vs

R. Chandra

RESPONDENT

Date of Decision : 06-11-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10(2)

Citation : (2012) 11 MAD CK 0212

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : R.P. Ramachanthiran, for the Appellant;

Final Decision : Dismissed

Judgement

Honourable Mr. Justice G. Rajasuria

1. This Civil Revision Petition has been filed to get set aside the order dated 21.12.2010 passed in I.A. No. 618 of 2010 in O.S. No. 387 of 2008 on the file of the learned District Munsif, Pudukkottai. The sum and substance of the case of the revision petitioners/defendants as found set out in the grounds of revision, would run thus:

The respondents 1 and 2/plaintiffs namely R. Chandra and R. Dhanalakshmi, filed the suit in O.S. No. 387 of 2008, on the file of the learned District Munsif, Pudukkottai, seeking partition of 1/3rd share each totalling 2/3rd share in the suit properties in favour of them. The second defendant happened to be the mother of the plaintiffs. The first defendant is the purchaser of the entire suit properties from the second defendant. During the pendency of the suit, the second defendant filed I.A. No. 618 of 2010 under Order 1 Rule 10(2) of the Code of Civil Procedure, for impleading the three proposed parties namely, Padmanaban, Jai Singh and Ravindran, on the ground that those three persons happened to be the children of the second wife of the deceased Rasu Kaduvettayar, who happened to be original owner of the suit properties, having

purchased by virtue of the sale deed dated 11.12.1961. The lower Court dismissed the application.

2. Challenging and impugning the said order, this Civil Revision Petition has been filed.

3. The learned Counsel for the revision petitioners would submit that the said Rasu Kaduvettiyar married one Rajammal for the second time while he was in Malaysia. The plaintiffs resisted the said application by filing the counter affidavit that those persons are imaginary persons, to put it in single syllable words, mythical personalities having nothing to do with the suit and purely for the purpose of creating confusion in the litigative process, the second defendant did choose to file the said application.

4. The lower Court without ordering even notice to the proposed parties, dismissed the said application with the finding that the endeavour on the part of the second defendant in trying to get impleaded those proposed parties, was nothing but an attempt to side-track the main issue.

5. Being aggrieved by and dissatisfied with the said order, this Civil Revision Petition has been filed on various grounds.

6. The scope of the suit should necessarily be seen. The plaintiffs 1 and 2 happened to be the daughters of the second defendant and the deceased Rasu Kaduvettiyar. In such a case, the second defendant of her own accord and that too after selling the suit properties without adding the plaintiffs as parties, in favour of the first defendant, filed such an application as though she was very much interest in safeguarding the interest of those alleged proposed parties who are purportedly living in Malaysia. If at all, those three persons are aggrieved, it is open for them to challenge any decree that would be passed.

7. I recollect the following legal maxim:

Res inter alios judicatae nullum aliis praejudicium faciunt." [Matters adjudged in the lawsuits of others do not prejudice those who were not parties to them.]

8. The lower Court correctly has seen the attitude of the second defendant, who excluded the plaintiffs by projecting herself as absolute owner based on some oral transfer given to her in recognition of her pre-existing right of maintenance, sold the suit properties in favour of the first defendant and wherefore, she was not at all concerned with the alleged interest of those three third parties and au faith with law and au courante with facts, seeing the realities in a posterior manner, the lower Court dismissed the said application, warranting no interference at the hands of this Court. In the result, this Civil Revision Petition is dismissed.

Consequently, the connected Miscellaneous Petition is dismissed. No costs.