

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD) No.4530 of 2015
and M.P.No.1 of 2015

1. Mrs.Balammal
2. Srinivasan
3. Naresh Babu

... Petitioners

Vs.

1. Mrs.Shanthi @ Meenakshi
2. Mrs.P.Andal
3. Mrs.Lalitha
4. Mrs.Mallika

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 20.11.2013 passed in I.A.No.257 of 2013 in O.S.No.77 of 1999 on the file of the learned Subordinate Judge, Cheyyar.

For Petitioner : Mr.Shivakumaran

ORDER

Challenging the fair and final order passed in I.A.No.257 of 2013 in O.S.No.77 of 1999 on the file of the Subordinate Court, Cheyyar, the defendants have filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.77 of 1999, for partition and for other reliefs. The defendants filed their written statement and were contesting the suit. Subsequently, the plaintiff filed an application in I.A.No.257 of 2013 under Order 23 Rule 1 CPC, to permit her to withdraw the suit in O.S.No.77 of 1999. The defendants filed their written statement and opposed the petition. The trial Court, taking into consideration the case of both parties, allowed the application by permitting the plaintiff to withdraw the suit in O.S.No.77 of 1999.

3. The learned counsel appearing for the petitioner submitted that the trial Court had given liberty to the plaintiff to contest the suit in O.S.No.34 of 2008 on the file of the Subordinate Court, Cheyyar.

4. On a reading of the order passed by the trial Court, it is clear that the trial Court has not given any liberty to the plaintiff to contest the suit in O.S.No.34 of 2008. Further on a reading of the prayer sought for in the application viz., I.A.No.257 of 2013, it is very clear that the contention put forth by the learned counsel appearing for the

petitioner was not the prayer sought in the said application by the plaintiff. In such a case, the trial Court has rightly permitted the plaintiff to withdraw the suit in O.S.No.77 of 1999. I do not find any error or irregularity in the order passed by the trial Court. The Civil Miscellaneous Petition lacks merit and the same is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

04.12.2015

Index : No

Internet : Yes

Note to office:

Issue order copy by 10.12.2015

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To

The Subordinate Court, Salem

M.DURAI SWAMY,J.,

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