

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.1615 of 2015
and M.P.No.1 of 2015

Karunanithi
Petitioner

...

vs

Neelamegam

... Respondent

Civil Revision Petition filed under 115 of Code of Civil Procedure Code against the fair and final order dated 1.8.2013 passed in I.A.No.47 of 2010 in A.S.No.133 of 2008 on the file of Subordinate Court, Perambalur.

For Petitioner : Mr.R. Nalliyappan

For respondent : Mr.P. Valliappan

ORDER

Challenging the fair and final order dated 1.8.2013 passed in I.A.No.47/2010 in A.S.No.133 of 2008 on the file of Sub Court, Perambalur, the defendant in O.S.No.251 of 1997 on the file of District Munsif Court, Perambalur has filed the above civil revision petition.

2. The plaintiff filed a suit in O.S.No.251 of 1997 for partition. The trial Court passed a preliminary decree and aggrieved over the same, the defendant preferred an appeal in A.S.No.133 of 2008 on the file of Sub Court, Perambalur.

3. In the appeal, the defendant took out an application in I.A.No.47 of 2010 to send the document Ex.B.1 for examination by hand writing and finger print expert. The application was opposed by the respondent/plaintiff. Ex.B.1 is the sale agreement, which was disputed by the plaintiff.

4. Admittedly, the defendant has not filed any similar application before the trial court. The trial Court also framed issues

regarding the execution of Ex.B.1 sale agreement.

5. When the defendant has not taken any steps to send the document for comparison, the trial Court, based on the materials available on record, had passed a preliminary decree and now, in the appellate stage, the defendant filed the present application to fill up the lacuna and get over the findings of the trial court.

6. The lower appellate Court, after taking into consideration of all the aspects, rightly dismissed the application. In these circumstances, I do not find any error or irregularity in the order passed in I.A.No.47 of 2010 in A.S.No.133 of 2008 on the file of Subordinate Court, Perambalur.

7. Under these circumstances, Civil Revision Petition is liable to be dismissed as devoid of merits. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected MP is closed.

8. The learned counsel for the respondent submitted that the

first appeal is pending from the year 2004 and subsequently, it was re-numbered as A.S.No.133 of 2008 on the file of Subordinate Court, Perambalur. In these circumstances, I direct the Subordinate Judge, Perambalur to dispose of the appeal in A.S.No.133 of 2008, on merits and in accordance with law, within a period of three months from the date of receipt of copy of this order.

15.6.2015

sr

Index:no
website:yes

To

The Subordinate Court, Perambalur

M. DURAISWAMY,J.,

sr

CRP(NPD)No.1615 of 2015

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