



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2015

CORAM:

THE HONOURABLE Mr.JUSTICE K.K.SASIDHARAN

C.R.P.PD(MD)No.1109 of 2013

and M.P.(MD)No.1 of 2013

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S.R.Subramanian

... Petitioner

Vs.

- 1.R.Swaminathan
- 2.R.Shanmugam
- 3.Dharmasundari
- 4.Prageswari
- 5.Subhadevi
- 6.R.Meenambal
- 7.Sulochana

... Respondents

PRAYER: Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 02.04.2013 passed in I.A.No.110 of 2013 in O.S.No.47 of 2004 on the file of the Principal Sub Court, Thanjavur.

For Petitioner : Mr.G.Venugopal
For Respondents : Mr.V.Chandrasekar

O R D E R

The respondents 1 to 6, who are stated to be the defendants 1 to 4 and 6 to 9, filed an application in I.A.No.110 of 2013 in O.S.No.47 of 2004 to include the property purchased by the wife of the petitioner as an item to be partitioned. The learned Trial Judge allowed the application in spite of the contentions raised by the petitioner that it was purchased out of her own funds.

2.Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

3.The petitioner filed a suit for partition in O.S.No.47 of 2004. The respondents earlier filed two applications and included certain items of properties. The respondents filed third application in I.A.No.110 of 2013 to include one more item of property, which stands in the name of the wife of petitioner.

4.The application in question was filed only after commencement of trial. The respondents, who are defendants in the suit, cannot be permitted to include properties one after another during the course of suit and that too after commencement of trial. The entire matter requires retrial in case of including another item of property. The wife of the petitioner was not made a party to the suit. Nothing prevent the respondents from filing application at an earlier point of time to include all the items of properties to be partitioned. This aspect was not considered by the learned Trial Judge.



5. In the result, the order dated 02.04.2013 in I.A.No.110 of 2013 is set aside. The Civil Revision Petition is allowed. No costs. Consequently, connected M.P. is closed.

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/True Copy/

Sd/-
Assistant Registrar (AS)

Sub Assistant Registrar

To

The Principal Sub Judge, Thanjavur.

+1cc to MR.M.P.SENTHIL, Advocate in SR.No. 29186

Nbj

SR/KBM : 07.07.2015 : 2p/3c

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