

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3311 of 2014,
MP.No.1 of 2014 and M.P.No.1 of 2015

Venkatappan

...Petitioner

versus

Chinnaraji

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.No.33 of 2014 dated 11.04.2014 in O.S.No.29 of 2013 on the file of Sub-Court, Tirupattur, Vellore District.

For Petitioner : Mr.PA.Sudesh Kumar

For Respondent : Mr.S.Subbiah

ORDER

The interlocutory application filed by the petitioner before the Sub-Court, Tirupattur in I.A.No.33 of 2014 in O.S.No.29 of 2013 to amend the plaint schedule and include the petition scheduled property was dismissed by the Trial Court. The said order is under challenge in this civil revision petition at the instance of the defendant in O.S.No.29 of 2013.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

3. The suit for partition in O.S.No.29 of 2013 was filed by the respondent before the Sub-Court at Tirupattur. Before the Trial Court, the petitioner filed an application in I.A.No.33 of 2014 with an allegation that the respondent omitted to include the property shown in the petition and as such, the same is also to be included in the plaint schedule. The learned Trial Judge dismissed the application with an observation that the petitioner failed to plead and prove that the property in the possession of the respondent belongs to joint family.

4.The property in question was purchased in the name of the respondent. The petitioner wanted the said property also to be included as an item to be partitioned.

5. The documents available on record indicates that there was a partition in the family. The petitioner got a share in the said partition. Even during the time of the said partition, the property, which is sought to be included by the petitioner was not included as an item to be partitioned. The petitioner miserably failed to plead and prove that the

property shown in I.A.No.33 of 2014 belongs to the joint family and as such, the same is liable to be partitioned.

6. The Trial Court was correct in dismissing the application. While confirming the order passed by the Trial Court in I.A.No.33 of 2014, I expunge the observation made by the Trial Judge that the respondent has got some other source to purchase the property and as such, the same could not be questioned at this stage.

7. The Civil Revision Petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

08.11.2016

Index : Yes/No
svki

To

The Sub-Court, Tirupattur

K.K.SASIDHARAN, J.

(svki)

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