

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.06.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.11 of 2016

and

C.M.P.No.23 of 2016

M. Thangavel

.... Petitioner

vs

1. Mrs.Lakshmi
2. C. Murugan
3. C. Selvam
4. Rani
5. Sarasu
6. Sumathi

.... Respondents

Civil Revision Petition filed under 227 of the Constitution of India against the order and decree made in unnumbered O.S.No. Of 2015 dated 01.12.2015 on the file of Principal District Judge, Krishnagiri.

For Petitioner : Ms.Selvi George

For respondents : Mr.J. Bharathiraja

ORDER

Challenging the order passed in unnumbered O.S.No. Of 2015 on the file of Principal District Court, Krishnagiri, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit for the following reliefs:

(a) by declaring the title of the plaintiff to the suit property;

(b) by granting permanent injunction against the defendants, restraining them from in any way trespassing into the suit property and from in any way disturbing the plaintiff in enjoying the suit property;

© by declaring the bogus Gift deed dated 28.03.2013 in Doc. No.989/2013 created in favour of 2nd defendant by other defendants in respect of suit property is null and void.

d) by declaring the bogus Gift deed

dated 28.03.2013 in Doc.No. 990/2013 created in favour of 3rd defendant by other defendants in respect of suit property is null and void;

e) by awarding the suit costs to the plaintiff;

f) by granting such other reliefs as this Honourable court may deem just and fit under the circumstances of the case and render justice.

3. At the stage of numbering , the trial Court went into the merits of the case and rejected the same on the ground of non-joinder of necessary parties and non-production of the documents. The suit was rejected by the trial Court, even without ordering notice to the defendants. The suit was rejected solely based on the submissions made by the learned counsel for the plaintiff.

6. Instead of going into the merits of the case and deciding the issues with regard to the non-joinder of necessary parties and non-

production of relevant documents, by the plaintiff, the trial Court should have given an opportunity to the parties to let in oral evidence and thereafter, should have decided the suit on merits. The trial Court should not have decided the issues at the threshold even without ordering notice to the defendants.

7. No doubt, the defendants have got every right to contest the suit at all available grounds. It is also open to the defendants to raise the issue of non-joinder of necessary parties. That being the case, the order, passed by the trial court, rejecting the suit, going into the merits of the case, is liable to be set aside.

8. In these circumstances, the order dated 01.12.2015 passed in the unnumbered O.S.No. Of 2015 is set aside. The Principal District Court, Krishnagiri is directed to number the Suit and decide the suit, after giving opportunity to both the sides, as per the provisions of the Civil Procedure Code and decide the same, on merits and in accordance with law. It is needless to say that the defendants are at liberty to raise all the defences, available to them, including non-joinder of necessary parties and non-production of the relevant

documents, by the plaintiff. With these observations, the Civil Revision Petition is allowed. No costs. Consequently, connected CMP is closed.

06-06-2016

sr

Index:no
website:yes

Not: Issue Order copy on 10.06.2016

To

The Principal District Judge, Krishnagiri.

M. DURAISWAMY,J.,

sr

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