

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.1330 of 2016

and

C.M.P.No.7453 of 2016

T.Sriramalu

... Petitioner

Vs

1. V.Krishnaveni
2. Subramanian
3. Govindarajulu
4. V.Yasotha
5. K.Kalaiselvi
6. K.Vennila
7. V.Rameshkumar
8. V.Vijay Anand
9. G.Santhi
- 10.M.Suryakala
- 11.S.Vijaya
- 12.K.Babu @ Ranganathan
- 13.K.Subramanian

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 19.02.2016 passed in I.A.No.263 of 2015 in O.S.No.72 of 2012 on the file of District Munsif, Harur, Dharmapuri District.

For Petitioner : Mr.J.Selvarajan

ORDER

The arguments advanced on behalf of the petitioner are heard.

2. The petitioner herein filed the suit O.S.No.72 of 2012 on the file of the District Munsif, Karur for cancellation of a partition deed dated 15.03.1982 so far as the properties allotted to him under the said deed. The said prayer came to be made on the basis of his contention that some of his separate properties were pooled with the common properties and they were allotted to others in the said partition. The partition took place on 15.03.1982 itself. The petitioner was very much a party to the partition deed. After a lapse of 30 years, the petitioner has chosen to file the above said suit with an ingenious prayer seeking cancellation of the partition deed not in its entirety and seeking a fresh partition, but to set aside the partition deed so far as the properties allotted to him under the said partition are concerned. The said properties have been shown in four items in the plaint schedule.

3. Mere reading of the plaint itself will make it clear that the suit has been filed without making proper averments and without incorporating proper prayer. It at all the petitioner / plaintiff wants to establish his claim relating to the properties allegedly owned by him exclusively, which were made subject

matters of the partition deeds, he ought to have filed a suit for declaration of his title in respect of those properties. In such an event, he ought to have paid Court fee on the market value of those properties and the forum also will differ. The petitioner seems to have filed the above said suit in the Munsif Court valuing the relief notionally and paying a paltry amount as Court fee by way of forum shopping. It seems, not content with the same and with an intention to prolong the case beyond period of three years after the filing of such a suit, the petitioner chose to file an application in I.A.No.263 of 2015 for appointment of a Commissioner to note down the physical features of the suit properties. The suit properties, according to the plaint pleadings are none other than the properties allotted to him in the above said partition deed. They are also the properties claimed by him to be his exclusive properties.

4. This Court is at a loss to understand the purpose sought to be served by appointing an Advocate Commissioner to note down the physical features of the present suit properties. It shows that it is nothing but an abuse of process of Court. Hence, this Court does not find any defect or illegality, much less irregularity in the exercise of jurisdiction by the trial Court in dismissing the said application, warranting interference by this Court under Article 227 of the Constitution of India. The revision does not even merit admission and the same deserves to be dismissed at the threshold.

P.R.SHIVAKUMAR, J

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5. Accordingly, the Civil Revision Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

28.04.2016

Index: Yes/No
Internet: yes/No

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To

The District Munsif, Harur,
Dharmapuri District.

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