

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1873 of 2016
and
C.M.P.No.9800 of 2016

1.Mrs.G.Suganthi
2.Mr.G.Prasad
3.Mr.G.Dinakar

... Petitioners

vs

1.Mrs.Sulochana
2.Mr.D.Gopal

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 28.01.2016 made in I.A.No.367 of 2015 in O.S.No.34 of 2014 on the file of the III Additional District Court, Tiruvallur at Poonamallee.

For Petitioner : Mr.G.Ashokapathy

For Respondent : M/s.R.Sripriya
for Mr.V.Raghavachari

ORDER

The revision arises against the order of learned III Additional District Judge, Poonamallee, passed in I.A.No.367 of 2015, in O.S.No.34 of 2014 on 28.01.2016.

2. Respondents/Plaintiffs filed O.S.No.34 of 2014 on the file of learned Principal District and Sessions Judge, Poonamallee, seeking partition and other consequential reliefs. Petitioners/Defendants 7 to 9 filed I.A.No.367 of 2015 seeking rejection of Ex.A44. Court below, under the impugned order, dismissed such application. Hence, this revision.

3. heard learned counsel for petitioners and learned counsel for respondents.

4. It is the case of the Respondents/Plaintiffs that on 07.09.2009, all family members entered into a partition deed presented at the Joint-2, Sub Registrar, Saidapet, and the relevant portion in the plaint reads as follows:

“The plaintiffs submit that while so that on 07.09.2009 the entire members of Joint Family (12 in numbers) entered into a

partition deed on the file of the Joint-2 Sub Registrar, Saidapet, and he gave pending document No.13/2009. Instead of registering the document, the Joint-2 Sub Registrar, Saidapet returned the pending document to 1st defendant R.Vijaya on receipt of fabricated letter dated 24.08.2010 to withdraw the document in pending No.13 of 2009 by forging signature for others. However, when the document was executed by participation of 12 members, it is not disclosed how it was returned. Later the plaintiffs came to know that the entire game was played by the defendants 7 to 9. Thereafter, a writ was filed in W.P.No.17350 of 2011 on the file of Hon'ble High Court, Madras challenging the return of unregistered pending document in illegal manner and the same is pending. Some other defendants also filed Writ Petition before High Court questioning the validity of the procedure adopted by the concerned Registrar in returning the document.”

5. Defendants 7 to 9 moved I.A.No.367 of 2015 seeking rejection of Ex.A44, contending that the same was a xerox copy of a partition deed, there was no proof that it was a replied of the original and that therein, properties which they were solely entitled to had been included.

6. On due consideration of rival submissions, Court below has seen the application as one to protract proceedings and informed that the respondents may canvass their case vis-a-vis Ex.P44 at the final adjudication.

7. Considering the facts and circumstances of the case, this Court is of the view that interests of justice would be met by disposing of the revision with the clarification that the document in Ex.A-44 referred in I.A.No.367 of 2015 in O.S.No.34 of 2014, be taken as marked subject to admissibility relevance and proof.

8. The Civil Revision Petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

27.07.2016

Index:yes/no
Internet:yes
ub

To

The III Additional District Court,
Tiruvallur at Poonamallee.

C.T.SELVAM, J

ub

**Civil Revision Petition (PD) No.1873 of 2016
and
C.M.P.No.9800 of 2016**

27.07.2016

<http://www.judis.nic.in>