

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.2060 of 2016

and

C.M.P.No.10739 of 2016

N.Mohana

W/o.Late K.A.Nanjundeswaran

... Petitioner

VS

Parameswari

W/o.Late K.K.Ammasai Muthaliar

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned Sub Judge, Gobichettipalayam, passed in I.A.No.14 of 2016 in O.S.No.168 of 2013 on 11.02.2016.

For Petitioner : Mr.K.Mukund Rao

ORDER

This revision arises against the order of learned Sub Judge, Gobichettipalayam, passed in I.A.No.14 of 2016 in O.S.No.168 of 2013 on 11.02.2016.

2. Petitioner/defendant has filed I.A.No.14 of 2016 in O.S.No.168 of 2013 on the file of learned Sub Judge, Gobichettipalayam, seeking rejection of the plaint. The Court below, under the impugned order, dismissed such application. Hence, this revision.

3. Heard learned counsel for petitioner.

4. Learned counsel for petitioner submits that the plaintiff/daughter-in-law of the petitioner has moved O.S.No.168 of 2013 on the file of learned Sub Judge, Gobichettipalayam, seeking permanent injunction. Though the plaintiff has reserved her right to file a separate suit for partition with regard to 'B' schedule properties, she has not moved any application under Or.2 R.2 CPC and hence, the petitioner has moved an application seeking rejection of the plaint under Or.7 R.11 CPC. Learned counsel submits that the Court below has erred in dismissing such application.

5. On a perusal of the order under challenge, this Court finds that the Court below rightly has observed that the failure to comply with Or.2 R.2 CPC would be an issue to be considered in any subsequent suit maintained by the plaintiff and that by itself could not be reason enough to reject the plaint. This Court finds no error in the order under challenge.

The Civil Revision Petition is dismissed. No costs. Consequently,
connected miscellaneous petition is closed.

11.07.2016

Index:yes/no
Internet:yes
gm

To

The Sub Judge,
Gobichettipalayam.

C.T.SELVAM, J

gm

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