

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2016

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD) No.2440 of 2016

And

C.M.P.No.12605 of 2016

L.Saran @ Saravanan (Deceased)

1.Mrs.L.Pushpammal

2.V.Sivaji

3.V.Kumar

4.Mrs.S.Renuka

5.S.Varshini (Minor)

6.S.Dharshini (Minor)

(Both 5 & 6 are rep. by their
natural guardian and mother
Mrs.S.Renuka 5th defendant)

... Petitioners

Vs.

L.Arun @ Murugaiya

... Respondent

Prayer:

Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.No.656 of 2015 in O.S.No.41 of 2008 dated 05.03.2016 on the file of the Additional District and Sessions Court, Kancheepuram at Chinglepattu.

For Petitioners : Mr.C.R.Dhasarathan
For Respondent : Mr.N.Mariappan

ORDER

The respondent filed a suit for partition and declaration before the Trial Court. The respondent filed a document which is stated to be an agreement of sale. The document was marked as Ex.A6. The petitioners thereafter filed an application in I.A.No.656 of 2015 for rejection of document. The application was opposed by the respondent.

2.The learned Trial Judge dismissed the application with an observation that the evidentiary value and genuineness of the document would be decided at a later point of time. Aggrieved by the said order, the petitioners have come up with this Civil Revision Petition.

3.Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4.There is no dispute that the respondent produced the xerox copy of the sale agreement and it was marked as Ex.A6. The petitioners are yet to cross examine the witnesses on the side of the respondent with reference to the document marked as Ex.A6. The genuineness and evidentiary value of the Ex.A6 would be decided by the learned Trial Judge taking into account the evidence adduced by

the parties.

5.Though the learned Trial Judge was correct in making the observation that the validity of the document would be decided at a later point of time, the observation to the effect that the petitioners herein being the defendants have to prove the genuineness of the document is uncalled for. The respondent placed reliance on the document in question. Therefore it is for the respondent to prove the genuineness of the document marked as Ex.A6.

6.Therefore, while sustaining the order passed by the learned Trial Judge, I make it clear that it is for the respondent to prove the document in Ex.A6.

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

08.11.2016

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Index: Yes/ No Internet: Yes/ No

K.K.SASIDHARAN,J.
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To

- 1.The Additional District and Sessions Court,
Kancheepuram at Chinglepattu.

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