

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD)No. 3107 of 2016

And

C.M.P.No. 15810 of 2016

V.Kumarasamy

... Petitioner/Petitioner/3rd Respondent/3rd Defendant

Versus

1. Santhanam

... Respondent/Respondent/Petitioner/Plaintiff

2. Pachaiyappan

... Respondent/Respondent/Respondent/Defendant

3. Ulaganathan

... Respondent/Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed dated 11.07.2016 made in I.A.No. 407 of 2016 in I.A.No. 880 of 2015 in O.S.No. 29 of 1966 on the file of the Principal District Munsif, Kanchipuram.

For Petitioner : Mr. M.Senthamizh Selvan

O R D E R

The respondents filed a suit for partition in O.S.No. 29 of 1966. Subsequently, the parties agreed to partition the property among the sharers. The trial Court passed an order directing the parties to submit their offers in a sealed cover for the purpose of auctioning the property among the sharers. The order was passed in I.A.No. 880 of 2015. The petitioners long after the order passed by the trial Court and that too after submitting the offers by the respondents, herein filed an application in I.A.No. 407 of 2016 for modification of the order in I.A.No. 880 of 2015 on the ground that there is no requirement to direct the parties to submit their offers in a sealed cover and it would be sufficient in case the auction is conducted among the parties in open Court. The learned Judge found that the attempt was only to protract the proceedings. The application was accordingly dismissed. The said order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioner.

3. The trial Court passed an order in I.A.No. 880 of 2015 pursuant to the earlier proceedings initiated under the Provision of the Partition Act to sell the suit property among the sharers. The trial Court adopted an equitable way of partition. The trial Court directed the parties to submit their offers in a sealed cover. It is a matter of record that the respondents have given their offers in a sealed cover. The petitioner without submitting his offer in sealed cover, filed an application for modification.

4. The learned trial Judge in the order dated 01.11.2016 very clearly observed that after receiving the offers from different sharers including the petitioner, auction would be conducted among the sharers taking into account, the highest bid as a bench mark. The order passed by the learned Judge is therefore perfectly in order and the same does not call for interference.

5. The petitioner who is in possession of the suit property appears to be not interested in the disposal of the matter. The learned trial Judge while dismissing the application observed that the intention is only to protract the matter. The present Civil Revision is yet another step in that direction. I am therefore, of the view that there is absolutely no merits in this Civil Revision Petition.

K.K.SASIDHARAN, J.

vsg

6. The Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

03.10.2016

vsg

To

Principal District Munsif, Kanchipuram.

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