

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3162 of 2016 and
CMP No.16047 of 2016

Kabali

...Petitioner

versus

1.Kuppu

2.Sampoornam

3.Kumudavalli

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 25.04.2016 made in I.A.No.12848 of 2015 in O.S.No.6418 of 2012 on the file of XVI Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.C.Hanumanth Rao

ORDER

The respondents filed a suit for partition against the petitioner before the Trial Court in O.S.No.6418 of 2012. The suit was contested by the petitioner by filing written statement. Thereafter, evidence was taken by the Trial Court. While so, the petitioner filed an application in I.A.No.12848 of 2015, invoking Order VII Rule 11 of the Code of Civil Procedure. According to the petitioner, there was no cause of action for filing the suit. The application was dismissed by the Trial Court. Feeling

aggrieved, the petitioner is before this Court with this Civil Revision Petition.

2. The learned counsel for the petitioner contended that the Trial Court has already marked Ex.A1. The said document would support the case of the petitioner that there was no cause of action for filing the suit. This aspect was not considered by the learned Trial Judge and as such, the order requires interference.

3. The suit in O.S.No.6418 of 2012 was instituted by the respondents praying for a decree of partition. The petitioner was arrayed as the sole defendant in the said suit. The petitioner filed written statement opposing the prayer for partition. It is a matter of record that only after examining the witness on the side of the respondents in their capacity as plaintiffs, the petitioner filed the application for rejection of plaint under Order VII Rule 11 of CPC.

4. It is true that there was no time limit for filing application under Order VII Rule 11 CPC. However, in a matter of this nature, when the evidence itself was taken by the Trial Court, there is no question of rejection of plaint, that too, based on the document already marked on

the side of the respondents. The learned Trial Judge very correctly held that the issue raised by the petitioner would be decided during the course of trial. I do not find any error or illegality in the said order warranting interference by exercising revisional jurisdiction under Article 227 of the Constitution of India.

5. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

06.10.2016

Index:Yes/No
svki

To

The XVI Additional Judge, City Civil Court, Chennai.

K.K.SASIDHARAN, J.

(svki)

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