

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.11.2016**

CORAM:

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

C.R.P.(P.D.) No.3312 of 2016 and
CMP.No.16904 of 2016

1.P.Subramaniam
2.P.Murugan

...Petitioners

versus

1.K.Veerakumar
2.P.Amarasamy
3.V.Periyapaiyan

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 09.06.2016 made in I.A.No.354 of 2015 in O.S.No.13 of 2008 on the file of I Additional District Munsif Court, Bhavani.

For Petitioners : Mr.T.Murugamanickam

For Respondents : Mr.D.Selvaraju

ORDER

This Civil Revision Petition is directed against the order dated 9 June 2016 in I.A.No.354 of 2015 in O.S.No.13 of 2008, whereby and where under, the learned Trial Judge rejected the request made by the petitioners to pass a supplementary preliminary decree on equitable grounds and to make allotment.

2. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents.

3. The suit in O.S.No.13 of 2008 was filed for partition of the suit property. The Trial Court passed an ex parte preliminary decree. The application filed to condone the delay in setting aside the ex parte decree in I.A.No.1175 of 2009 was dismissed by the Trial Court. The order was upheld by the High Court in CRP.No.1132 of 2010. The first respondent, who laid the suit, in the mean time filed an application for passing final decree in I.A.No.778 of 2009.

4. The Commissioner appointed by the Trial Court for partition by metes and bounds submitted a report.

5. Before the Trial Court, the petitioners filed an application with a contention that they have purchased the property from Thiru.K.P.Chinnappa Gounder. The petitioners, wanted equitable allotment of the property to them taking into account the improvement made by them.

6. The Trial Court found that Thiru.K.P.Chinnappagounder was entitled to 2/5 share only. He was in possession of the property along with other co-owners. The petitioners contended that they are the assignees of K.P.Chinnappagounder and as such, on equitable grounds, they should be allotted the property. The Trial Court found that the petitioners purchased the property from co-owners and as such, it cannot be said that they are in exclusive possession of a particular extent.

7. The Trial Court passed the impugned order taking into account the background facts. The Trial Court has given sufficient reasons while denying the request made by the petitioners. The order passed by the Trial Court taking into account the facts and circumstances of the case is not liable to be set aside by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

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

07.11.2016

Index : Yes/No
svki

K.K.SASIDHARAN, J.

(svki)

To

The I Additional District Munsif Court, Bhavani

C.R.P.(P.D.) No.3312 of 2016

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