



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

WEB COPY

C.R.P(MD)Nos.2782 and 2783 of 2015
and
M.P. (MD) .Nos.2 of 2015 in both cases

C.R.P(MD)No.2782 of 2015:

Mariyayee .. Petitioner

Vs.

1.Mari Muthu
2.Rathinam
3.Muthammal
4.Rajeswari

.. Respondents

C.R.P(MD)No.2783 of 2015:

Rajeswari .. Petitioner

Vs.

1.Mari Muthu
2.Rathinam
3.Muthammal
4.Mariyayee

.. Respondents

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 30.06.2014 made in I.A.Nos.580 and 581 of 2014 in O.S.No.204 of 2001 on the file of the II-Additional Subordinate Court, Tiruchirappalli and permit the petitioner to contest the suit.

For Petitioner : Mr.V.Sitharanjandas
in both petitions

COMMON ORDER

Challenge is made in these Civil Revision Petitions to the fair and decretal orders dated 30.06.2014 and made in I.A.Nos.580 and 581 of 2014 respectively in O.S.No.204 of 2001 on the file of the learned II-Additional Subordinate Court, Tiruchirappalli. The revision petitioners herein are the third defendant and fourth defendant respectively, in the suit. The above suit seems to have been filed by the first respondent as against the defendants,



seeking the relief of partition in respect of his half share as against the first defendant alone. Obviously the first defendant had alone contested the suit, while the remaining defendants 2 to 4 remained *ex-parte*. In order to set aside the order of *ex-parte*, they have filed an application under Order 9 Rule 7 of the Code of Civil Procedure. That application was dismissed on the ground that the second defendant had been colluding with the plaintiff, in filing the suit as against the first defendant.

2. The respondents have been served with notice. However they have not chosen to appear either in person or through their respective counsels.

3. Heard Mr.V.Sitharanjandas, learned counsel appearing for the petitioners and perused the grounds of these revision petitions filed against the impugned order.

4. It appears that this suit has been filed for partition and the sisters were added as parties for appropriate adjudication and moreover, if really the petition was filed at the instance of the plaintiff, he would have filed the suit seeking a share to the second defendant in the suit properties. Therefore, the question of collusion of the second defendant with the first respondent/plaintiff does not arise in this case. Keeping in view of the above facts, this Court is of considered view that these revision petitions are liable to be allowed.

5. Accordingly, these Civil Revision Petitions are allowed by setting aside the impugned order dated 30.06.2014 made in I.A.Nos.580 and 581 of 2014 in O.S.No.204 of 2001. Consequently connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

The II-Additional Subordinate Judge, Tiruchirappalli.

+2cc to Mr.V.Sitharanjandas, Advocate Sr.No.410 &411

pjl

AA/NGM-SS/03.03.2016/2p-4c

C.R.P (MD) Nos.2782 and 2783 of 2015 and

M.P. (MD) .Nos. 2 and 2 of 2015

05.01.2016