



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 28.11.2016

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P. (MD) (PD) No. 2129 of 2016

and

C.M.P. (MD) No. 9996 of 2016

Panchavarnam

.. Petitioner

vs

1. Gopalakraishnan

2. Shanmugasundaram

3. Deenadayalan

4. Kalavathy @ Kuzhumayee

.. Respondents

The Civil Revision Petition filed under Article 227 of the Constitution of India to allow the present civil revision petition by setting aside the fair and decretal order dated 08.08.2016 made in CMA No.31 of 2015 on the file of the II Additional District Judge, Tiruchirapalli confirming the fair and decretal order dated 31.08.2015 made in I.A.No.505 of 2015 in O.S.No.764 of 2015 on the file of the I Additional Subordinate Judge, Tiruchirappalli.

For Petitioner

... Mr.J.Maria Roseline

For Respondents

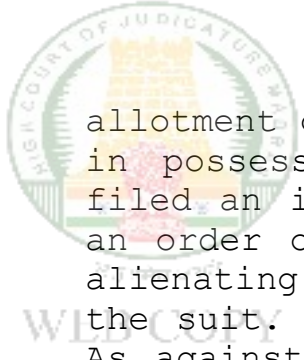
... Mr.A.Murugan

O R D E R

The Civil Revision Petition has been filed to set aside the fair and decretal order dated 08.08.2016 made in C.M.A.No.31 of 2015 on the file of the learned II Additional District Judge, Tiruchirapalli confirming the fair and decretal order dated 31.08.2015 made in I.A.No.505 of 2015 in O.S.No.764 of 2015 on the file of the learned I Additional Subordinate Judge, Tiruchirappalli.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The petitioner herein filed a suit in O.S.No.764 of 2015 on the file of the learned I Additional Subordinate Judge, Tiruchirappalli for partition of the suit property into 3 equal shares and for



allotment of one such share to the plaintiff and put the plaintiff in possession of the same. Thereafter, the petitioner herein filed an interlocutory application in I.A.No.505 of 2015 to pass an order of interim injunction restraining the respondents from alienating or encumbering the suit property till the disposal of the suit. The said application was dismissed by the trial Court. As against the dismissal order passed in I.A.No.505 of 2015, the petitioner filed an appeal in C.M.A.No.31 of 2015 on the file of the II Additional District Judge, Tiruchirappalli (FAC) to set aside the order passed in I.A.No.505 of 2015 in O.S.No.764 of 2015. The said Civil Miscellaneous Appeal was dismissed on 08.08.2016. Aggrieved by the judgment passed in C.M.A.No.31 of 2015, the present civil revision petition has been filed.

4. When the matter was taken up for hearing on 10.11.2016, the learned counsel for the respondents submitted that the respondent would file an affidavit of undertaking not to alienate the property. Accordingly, today, the respondents herein have filed an affidavit of undertaking wherein paragraph No.6 reads as follows:

"We undertake that we are not to alienate and encumbrance the suit mentioned property till the disposal of the suit."

5. The affidavit of undertaking filed by the respondents is recorded.

6. The learned counsel for the petitioner requested that this Court may direct the I Additional Subordinate Judge, Tiruchirappalli to dispose of O.S.No.764 of 2015 as early as possible.

7. Considering the request made by the learned counsel for the petitioner, this Court directs the the learned I Additional Subordinate Judge, Tiruchirappalli to dispose of O.S.No.764 of 2015 on merits as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order. The parties to the suit are directed to co-operate in the trial.

8. In view of the affidavit of undertaking filed by the respondents, the Civil Revision Petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

1.The II Additional District Judge,
Tiruchirapalli.

2.The I Additional Subordinate Judge,
Tiruchirappalli.

3.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.A.Murugan, Advocate Sr.No.73597

GJM/SS3/15.12.16-3p-5C

C.R.P. (MD)No.2129 of 2016

Date: 28.11.2016