

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM :

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) No. 1073 of 2014
and
M.P No. 1 of 2014

1. Pannerselvam

2. Asaithambi

... Petitioners

VS.

Lakshmi

...Respondent

Civil Revision Petition filed under Section 115 of Code of Civil Procedure against the order and decreetal order dated 14.12.2013 made in I.A. No.61 of 2013 in O.S.No.181 of 2010 on the file of the learned District Munsif, Dharmapuri and prays to set aside the same.

For Petitioners : Mr. T. Murugamanickam
Senior Counsel
for Mr. R. Sreerangan

For Respondent : Mr. V. Vasanthakumar
for Mr. M. Jayachandran

ORDER

This Civil Revision Petition arises against the fair and decreetal order dated 14.12.2013 made in I.A. No.61 of 2013 in O.S.No.181 of 2010

on the file of the learned District Munsif, Dharmapuri.

2. Learned counsel for the petitioners submitted that the respondent filed a suit in O.S. No.181 of 2010 against her brother, who is the 1st defendant, for partition and separate possession of her 1/4th share in the suit property. The petitioners / defendants 2 and 3 are the bonafide purchasers of the suit property. On 14.03.2011, the petitioners herein were set ex-parte. Therefore, the petitioners filed a petition to condone the delay of 565 days in filing the petition to set aside the ex-parte preliminary decree dated 14.03.2011. Since the respondent / plaintiff had suppressed the registered partition deed. As the petitioners have sold the suit property to one S. Karuppannan and others, who have put up constructions, the petitioners are necessary parties to the suit. Without considering these facts, the learned Judge dismissed the petitions. Challenging the same, this revision petition has been filed.

3. As submitted during the previous hearing, today learned counsel for the respondent filed an Undertaking affidavit dated 24.04.2017, before this Court. In paragraph 5 of the said affidavit, the respondent has stated that she has no other claim, except her right of

share in the property, as per the preliminary decree and has no objection to allot an extent of 0.51 cents purchased by the petitioners, as per the registered sale deed dated 10.08.2006. The Undertaking Affidavit dated 24.04.2017 filed by the respondent, shall form part of the records.

4. Learned senior counsel appearing for the petitioners has no objection for recording the aforesaid undertaking filed by the respondent.

5. In the light of the Undertaking Affidavit dated 24.04.2017 filed by the respondent, this Civil Revision Petition is disposed of, with liberty to the petitioners to work out their remedy, before the court below. Consequently, the Connected Miscellaneous Petition is closed. No order as to costs.

24.04.2017

Index : yes / no

Speaking Order/ Non speaking order

avr

To

The District Munsif Court,
Dharmapuri

D.KRISHNAKUMAR, J.

avr

C.R.P. (NPD) No. 1073 of 2014
and
M.P No. 1 of 2014

24.04.2017