

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2017

CORAM:

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

CRP.No.1367 of 2017

and

CMP.No.6360 of 2017

Murali

..Petitioner

..Vs..

Narayanamma(died)

1.Shanthamma

2.Sampangiamma

3.Parvathamma

4.Ramakrishnappa

5.Venkatalakshmma

.. Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair Order and Decretal Order dated 21.02.2017 made in I.A.No.616 of 2015 in O.S.No.58 of 2008 on the file of the Subordinate Judge, Hosur.

For Petitioner : Mr.J.Nandagopal

ORDER

This Civil Revision Petition has been filed to set aside the fair and Decretal Order dated 21.02.2017 passed in I.A.No.616 of 2015 in O.S.No.58 of 2008 on the file of the Subordinate Judge, Hosur.

2. The petitioner is the third party in the suit and respondents 1 to 3 are the plaintiffs and respondents 4 and 5 are the defendants 1 and 2. The Original Suit was filed by one Narayanammal seeking partition and separate possession of the suit properties and to grant permanent injunction against the defendant No.1 restraining him from alienating the

suit properties till the disposal of the suit.

3. The respondents 1 and 2 filed a written statement and are contesting the suit. The suit is pending for trial. The respondents 1 to 3 impleaded as plaintiffs 2 to 4. The respondents 1 to 3 filed I.A.No.616 of 2015 along with two others for including the property in plaint in S.No.110/2 measuring 1645 sq.ft and to implead the petitioner as a third defendant in the above suit.

4. According to the respondents 1 to 3, the property in S.No.110/2 is also a joint family property. The 5th respondent/1st defendant sold his property to the petitioner on 13.12.2010. After filing of the suit, petitioner filed an application in I.A.No.616 of 2015 and contested the application on the ground that the said property is not a joint family property and it is an absolute property of the first defendant. The patta was issued in the name of the 5th respondent/1st defendant.

5. The learned Trial Judge, considering the averments made in the affidavit, counter affidavit and materials on record, allowed the said application holding that whether the property is individual or joint family property or absolute property of the first defendant can be decided only on the conclusion of the trial.

6. Against the order dated 21.02.2017 passed in I.A.No.616

of 2015 in O.S.No.58 of 2008 on the file of the Subordinate Judge, Hosur, the present Civil Revision Petition is filed to set aside the above said order.

7. Heard the learned counsel for the petitioner and perused the materials available on record.

8. From the materials on record, it is seen that the objection of the petitioner for inclusion of property in question and impleading him as a party defendant is that the property is the individual property of the 5th respondent/1st defendant and not the joint family property. The Learned Trial Judge has rejected this contention of the petitioner on the ground that this issue can be decided only at the time of conclusion of trial. The learned Judge considering all the materials on record in proper perspective, allowed the application by exercising his power conferred on him by giving cogent and valid reasons. There is no irregularity or illegality warranting interference by this Court with the order of the learned trial Judge, dated 21.02.2017. Since the suit is of the year 2008, learned Trial Judge is directed to dispose of the suit, as early as possible, in any event, not later than four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

14.06.2017

gv/dh

V.M.VELUMANI,J

gv/dh

To

The Subordinate Judge,
Hosur.

CRP.No.1367 of 2017
and
CMP.No.6360 of 2017

14.06.2017

<http://www.judis.nic.in>