

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.M.A.No.1925 of 2015

M.Kalaimagal

... Appellant/Petitioner

Vs.

1.Rajesh Roonwal

2.Pawn Kumar Roonwal

3.Devaraj Roonwal

4.Gowthamchand Roonwal

... Respondents/Respondents

Appeal filed Order 43 Rule 1 (NA) of the Civil Procedure Code against the judgment and decree passed in O.P.No.27 of 2008 on the file of the III Additional District Judge, Puducherry dated 17.04.2015 and to set aside the same.

For Appellant : Mr.S.Gunalan

For Respondents : No appearance

J U D G M E N T

Challenging the order passed in O.P.No.27 of 2008 on the file of the III Additional District Judge, Puducherry, the petitioner/plaintiff has filed the above Appeal.

2.The petitioner filed the un-numbered suit for declaration to reconvey the "A" Schedule property and to declare the Sale Deed dated 27.12.2001 as null and void and also for declaration to declare that she is the absolute owner of the "A" Schedule property. The petitioner has also prayed for mandatory injunction.

3.The suit was filed by the petitioner under Order 33 Rule 1 of the Civil Procedure Code to permit her to file the suit as an Indigent person. In the petition, the petitioner has stated that she is not having sufficient funds for paying the Court fees of Rs.7,65,801.50p. The respondents also filed their counter wherein they have disputed the averments stated in the petition and also have stated that the petitioner has got sufficient funds to pay the Court fees. The petitioner's husband was

examined as P.W.1 and on the side of the respondents, R.W.1 was examined. P.W.1, in his evidence, has stated that he is working as a Professor in the Puducherry University and is earning a sum of Rs.50,000/- per month. Further, he has stated that the petitioner is having Rs.23 lakhs with her.

4.When P.W.1, the husband of the petitioner, has specifically stated that the petitioner is having Rs.23 lakhs with her and that he is earning a monthly salary of Rs.50,000/-, the trial Court had dismissed the petition finding that the petitioner has got sufficient funds for paying the stamp duty. The order passed by the trial Court is just and proper.

5.In these circumstances, I do not find any error or irregularity in the order passed by the trial Court. The appeal is devoid of merits and is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The III Additional District Judge,
Puducherry.

+1 cc to M/s.S.Gunalan Advocate sr 72450

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