

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2017

CORAM:

The Hon'ble Mr.Justice S.M.Subramaniam

**C.R.P.(PD) No.1445 of 2014
and
M.P.No.1 of 2014**

S.K.S.Subramaniam

..Revision Petitioner

Vs.

1. S.K.S.Palanis @ Palanisamy
2. S.K.S.Sivakumar
3. M/s.Karur Travels,
rep. by S.K.S.Sivakumar
4. M/s.Karur Transport Pvt. Ltd.,
rep. by its Director, Mrs.Jayanthi

5. Mrs.Jayanthi

...Respondents

Civil Revision Petition, filed under Article 227 of the Constitution of India against the fair and decreetal order, dated 11.03.2014, made in I.A.No.1300 of 2012, in O.S.No.4 of 2005, on the file of the II Additional District and Sessions Judge, Tirupur.

For Revision Petitioner : Mr.B.Suresh Lal for

Mr.K.Vignesh Karthick

For Respondent-2 : Mr.Dhalapathy Vignesh Kumar

ORDER

This Civil Revision Petition is filed, challenging the fair and decreetal order passed by the learned II Additional District and Sessions Judge, Tirupur, in I.A.No.1300 of 2012, in O.S.No.4 of 2005, dated 11.03.2014.

2. The plaintiff, who filed the afore said suit for partition and separate possession is the revision petitioner herein. The suit is of the year, 2002, and after a lapse of 10 years, the revision petitioner has filed an Interlocutory Application in I.A.No.1300 of 2012, seeking to implead the proposed three parties, viz., i) M/s.Karur Travels, rep. by S.K.S.Sivakumar, ii) M/s.Karur Transport Pvt. Ltd., rep. by its Director, Mrs.S.Jayanthi and iii) Mrs.S.Jayanthi, as defendants 3 to 5 in the suit. Resisting the said Application, the second respondent/second defendant filed a counter affidavit, stating that the trial was over, and the plaintiff's side arguments had been completed as early as on 22.08.2012, and at that point of time, the plaintiff had filed an Application, in I.A.No.929 of 2012, to re-open the case for marking additional documents. The said Application was allowed and the plaintiff was re-examined and marked certain additional documents and cross-examination of the plaintiff was also completed as early as on 08.10.2012. When the suit was posted for arguments on 18.10.2012, once again, the plaintiff filed another application to re-open their side of evidence to mark the original will, dated 10.12.1993, alleged to have been

executed by his mother in his favour. The said application was also allowed by the trial Court on 15.11.2012.

3. The contention of the second respondent/second defendant was that the said Will was not pertaining to the suit property. It was executed in favour of the revision petitioner/plaintiff by his mother Mrs.Marudhammal, at the age of 96, who had no title over the suit property. Despite these facts, the Will was allowed to be marked as a document by the Trial Court, and the suit was posted again for arguments of the plaintiff's side on 03.12.2012. At this stage of the matter, the revision petitioner/plaintiff filed I.A.No.1300 of 2012, to implead the afore mentioned three parties as defendants 3 to 5 in the suit.

4. The trial Court, having found that the proposed two Companies i) M/s.Karur Travels and ii) M/s.Karur Transport Pvt. Ltd., were not functioning and were closed way back in the year 2002 itself, and in the absence of any material evidence to prove that the above two Companies are functioning at present, rightly dismissed the Application for impleadment. Further, there is no point in impleading the proposed parties, and the suit is of the year 2002, and revision petitioner filed Application for re-opening the case for marking additional documents, and the same was allowed, and accordingly, he also

marked additional documents, and finally, it was posted for arguments. At this stage of the matter, findings of the trial court that the present Application for impleadment was filed in order to protract the proceedings, seems to be correct. Therefore, this Court is not inclined to interfere with the order passed by the Trial Court.

5. In the result, the fair and decreetal order, passed by the learned II Additional District and Sessions Judge, Tirupur, in I.A.No.1300 of 2012, in O.S.No.4 of 2005, dated 11.03.2014 is confirmed. Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

09.02.2017

sd

To
The II Additional District and Sessions Judge,
Tirupur.

S.M.Subramaniam, J.

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