

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.08.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE M.GOVINDARAJ**

C.R.P.PD.Nos.3040 & 3041 of 2017

and

C.M.P.Nos.14250 of 2017

1.Sakthi

2.Sudha

...Petitioners in both C.R.Ps.

Vs.

1.Thirumani

2.Raja

3.Selvamani

4.Rajakumari

5.Jaya

6.Lakshmi

...Respondents in both C.R.Ps.

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.156 and I.A.No.157 of 2017 in O.S.No.134 of 2011 dated 19.07.2017 on the file of the Principal Subordinate Court at Villupuram by allowing the present Civil Revision Petition.

ORDER

The learned counsel for the petitioners would submit that the trial Court in the absence of death certificate and legal heir certificate, says that she is not the legal heir. It is not the case of the parties that the petitioner is not the legal heir and the suit for partition filed by the petitioners is being contested for the past five years and written statement was filed on 25.01.2012.

2.It is clearly admitted that the petitioner is the wife of the deceased Thanikachalam. The entire case of the defendants is that the deceased Thanikachalam, husband of the petitioner had executed a Will in favour of his brother's son and therefore the petitioners are not entitled to partition.

3.Whereas the learned counsel for the petitioner would also submit that the defendants have also filed C.R.P.(PD).130 of 2016, which was dismissed by the order dated 11.03.2016. It is categorically mentioned that the two brothers namely Ragupathi and Thanikachalam have jointly purchased the property by sale deed dated 21.02.1979. The case projected by the respondents based on the Will was also discussed in the Civil Revision Petition.

4. Therefore, at this stage, when the matter is posted for argument, it is found by the trial court that the petitions are filed only to drag on the proceedings and the documents are not necessary to decide the issue in the suit. The very fact is that the suit is for partition and based on that only the rights of the parties are to be decided.

5. Therefore, the trial court has rightly found that the documents are not necessary to decide the rights of the parties. Therefore, the findings of the trial court do not require any interference.

6. The learned counsel for the petitioners would submit that the petitioners would cooperate for the completion of the proceedings.

7. In view of the submissions made, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

No costs.

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23.08.2017

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M.GOVINDARAJ.,J.

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To.

The Principal Subordinate Court
Villupuram



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