

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P. (PD) No.4052 of 2017

R.V.Sathyamoorthy

.. Petitioner

Vs

1. S.Gothandapani
2. K.Ramesh
3. K.Ravichandran
4. K.Shankar
5. K.Murali
6. T.Sumathi
7. N.Ramasamy
8. N.Rajendra Kumar
9. N.Radha Bai
10. Vijyashanmugasundaram
11. V.S.Navaneethkrishnan
12. Dr.V.Anand
13. V.Ramya
14. R.V.Jaya Prakash
15. R.V.Durairaj
16. R.V.Nandhakumar
17. R.V.Devakrishnaraj
18. R.V.Balagangatharathilagar
19. Saroja
20. Bagyalakshmi

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decretal Order dated 29.08.2017 in I.A.No.278 of 2017 in I.A.No.40 of 2017 in O.S.No.03 of 2017 on the file of II Additional District Judge of Salem.

For Petitioner : M/s.T.Dharani

For Respondents : M/s.K.S.Shankara Murali

for R14 & R15 / Caveators

ORDER

This Revision arises against the Fair and Decretal Order dated 29.08.2017 in I.A.No.278 of 2017 in I.A.No.40 of 2017 in O.S.No.03 of 2017 on the file of the II Additional District Judge of Salem.

2. The respondents 1 to 15 have obtained a preliminary decree and has now filed an application for passing of a final decree in terms of the preliminary decree passed in the said suit. Subsequently, the respondents 1 to 15 filed an application in I.A. No. 278 of 2017 to mark additional documents. According to the revision petitioner, the said documents have already been marked in the suit and hence the application filed by the respondents is unsustainable and that the same is liable to be rejected. But the court below has allowed the said

application. Challenging the order passed by the court below for marking of documents as additional evidence in the final decree proceedings, the revision petition is filed before this court.

3. The learned counsel for the respondents would submit that it is true that the revision petitioner has filed the same documents in the suit and thereafter preliminary decree has also been passed. He further stated that the document is a necessary piece of evidence to prove that there is no dispute about the identity of the suit property. Marking of the said documents, would cause no prejudice to the revision petitioner and hence the said application has been rightly allowed by the court below.

4. During the course of arguments, the learned counsel for the respondent submitted that due to the objection of the revision petitioner, the learned Advocate Commissioner did not inspect the property. Therefore, the present application filed and orders were obtained before the trial court. Based on the above contention, the learned counsel for the petitioner prayed to set aside the order passed by the court below, with liberty to file appropriate application for the

very same relief. Admittedly, the said documents has already been marked before the trial court.

5. In the light of the above submission of the learned counsel for the parties, the order passed by the court below is set aside and the trial court is directed to proceed, in accordance with law. However, it is open to the respondents, to file necessary application, at a later stage. On instructions, the learned counsel for the parties undertake that both the parties will co-operate for passing of final decree.

6. The Civil Revision Petition is allowed, with the above observations. No order as to costs.

23.11.2017

Index : Yes/ No

[Issue order copy within one week]

avr

To

II Additional District Judge, Salem.

D. KRISHNAKUMAR J.,

avr



C.R.P. (PD) No.4052 of 2017

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