

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.578 of 2017
and
C.M.P.No.2977 of 2017

1. Tmt.Cynthia Thyagarajan	
2. Mrs.Shanthi Venkatramani	.. Petitioners
Vs.	
D.Anand Harry Christy	.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 18.10.2016 made in I.A.No.351 of 2016 in O.S.No.295 of 2015 on the file of the Principal District Court, Kancheepuram District at Chengalpattu.

For petitioners : Mr.V.K.Rajagopalan

ORDER

The defendants have filed this revision challenging the order refusing to entertain the application under Order 7 Rule 11 CPC to reject the plaint.

2. The respondent/plaintiff is the son and the first defendant is the

mother of the plaintiff and the second defendant is the daughter. The plaintiff has stated that the mother has no independent source of income, but the property was purchased in her name by the father. When the father died intestate, the property belongs to all of them, and hence, the plaintiff has filed the suit for partition.

3. It is the case of the revision petitioners/defendants that when the property stands in the name of the first defendant-mother, the son cannot make a claim, and hence, the plaint has to be rejected.

4. But, the question as to whether the property was purchased by the plaintiff's father in the name of the first defendant-mother with his funds or through any other source, has to be decided only in the suit. Hence, the contention of the revision petitioners that there is no cause of action for filing the suit, cannot be accepted and on the same ground, the trial Court had dismissed the application. I find no infirmity in the impugned order and the same is confirmed.

5. However, considering the fact that the scope of the suit itself is very limited and it is only between the members of the same family, a direction is issued to the learned Principal District Judge, Kancheepuram District at Chengalpattu, to dispose of the suit in O.S.No.295 of 2015, on or before 31.12.2017.

6. With the above observations and direction, the Civil Revision

Petition is dismissed. No costs. C.M.P. is closed.

23.02.2017

CS

Copy to

The Principal District Judge, Kanchipuram at Chengalpattu.

PUSHPA SATHYANARAYANA, J

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