

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2017

CORAM

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRP.No. 2140 of 2013

Minor V.Rithusri By next friend
V. Madhumitha (Mother) ...Petitioner/Respondent/Plaintiff

Vs.

E.VijayakumarRespondent/Petitioner/2nd Defendant

Petition filed under Article 227 of The Constitution of India, praying to (1) set aside the fair and the decretal order dated 6th August, 2012 passed in I.A.No.295 of 2012 in O.S.No.43 of 2011 on the file of the Subordinate Court at Udumalpet, (2) consequently dismiss the I.A.No.295 of 2012 in O.S.No.43 of 2011 on the file of the Subordinate Court at Udumalpet, with cost.

For Petitioner .. Mr.V.Selvaraj

For Respondents .. Mr.V.Nicholas

O R D E R

The plaintiff in O.S. No.43 of 2011 on the file of the learned Subordinate Judge, Udumalpet, Tiruppur District, is the revision petitioner.

2. The plaintiff and defendant are relatives. The plaintiff claimed her share in the suit property. It is a partition suit. A written statement has been filed by the other defendant except the second defendant. Issues were framed. Suit was put on trial. Evidence was let in. The trial of the suit is in the middle. Already, second defendant was set ex parte. No ex parte decree was passed.

3. He filed I.A. No.295 of 2012 seeking to set aside ex parte order and he also filed written statement along with the application.

4. The Trial Court allowed the application also directing him to pay a cost of Rs.600/-. Aggrieved, the plaintiff has directed this revision.

5. I have considered the submission of both sides, perused the impugned order and the materials on record.

6. It is a partition suit. The plaintiff will be treated as defendants, the defendants as plaintiffs. Further, as against the second defendant only, an ex parte order has been passed it is only an ex parte order. It has been set aside by the Trial Court with a view to give him an opportunity. The second defendant also filed the written statement. Of course, this is not to the liking of plaintiff also awarded to him. In the facts and circumstances, I don't find any irregularity or illegality in the impugned order passed by the Trial Court order,

7. Ordered as under:

(i) This revision fails and it is dismissed;

(ii) The Trial Court is directed to dispose of this old partition suit expeditiously according to law.

(iii) There is no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

at

To

1 The Subordinate Judge
Udumalpet,

2 The Record Keeper
VR Section, High Court, Madras

+1cc to Mr.V. Nicholas, Advocate, S.R.No.21132

nrjk(CO)
md(19/04/2017)

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