



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) (PD) No.2493 of 2017

and

C.M.P. (MD) No.11730 of 2017

Saravanan

... Petitioner/Petitioner/
2nd Defendant

Vs.

1.J.Yuvarani
2.R.Punitha

... Respondents/Respondent/
Plaintiffs

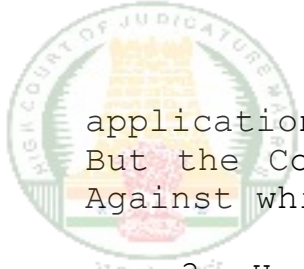
PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No.492 of 2017 in O.S.No.627 of 2011 on the file of the III Additional Sub-Court, Madurai, dated 24.11.2017.

For Petitioner : Mr.T.C.S.Thillainayagam

O R D E R

The Civil Revision Petition has been filed against the fair and decreetal order dated 24.11.2017 in I.A.No.492 of 2017 in O.S.No.627 of 2011 on the file of the III Additional Sub Court, Madurai.

2. The respondents 1 and 2 are the plaintiffs and they filed a suit in O.S.No.627 of 2011 before the III Additional Sub Court, Madurai for partition and separate possession of the plaintiffs' one fourth share to each of the plaintiffs in respect of the scheduled mentioned properties by metes and bounds and directing the defendants 1 and 2 to render a correct and true income and pay the legitimate share of the plaintiffs from the suit property for a period of three years immediately from the date of institution of the suit till the delivery of the share of the plaintiffs and also granting a decree of permanent injunction restraining the defendants their men, agents and those who are all claiming under them from in any manner alienating or creating any encumbrances over the suit properties whatsoever. In the above suit, the petitioner was set ex-parte. Immediately, the petitioner filed an



application to set aside the ex-parte order in I.A.No.492 of 2017. But the Court below has dismissed the application on 24.11.2017. Against which, the present Civil Revision Petition has been filed.

3. Heard the learned counsel for the petitioner and perused the materials available on records.

4. Since the respondents have already given no objection for allowing the application in I.A.No.492 of 2017 and the parties are brothers and sisters, no notice is necessary to the respondents.

5. Perusal of the records shows that in the petition in I.A.No.492 of 2017 to set aside the ex-parte order, the parties are brothers and sisters and it is a suit for partition and there is no time limit. In this case, the respondents had already given no objection for allowing the petition. In spite of the same, the learned Judge has dismissed the application. In my considered opinion, the order needs interference and therefore, the order passed by the learned III Additional Sub Judge, Madurai in I.A.No.492 of 2017 in O.S.No.627 of 2011 dated 24.11.2017 is set aside and the Civil Revision Petition is allowed. However, considering the circumstances of the case, the learned III Additional Sub Judge, Madurai is directed to dispose of the suit in O.S.No.627 of 2011 within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The III Additional Subordinate Judge,
Madurai.

+ 1 cc TO Mr.T.C.S.Thillainayagam , Advocate in SR No. 93653

akv

AE/JC/SAR2/20.02.2018/2P/3C

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