

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD)No. 4777 of 2017

& C.M.P.No.22472 of 2017

1) G.Muralidharan
2) G.Janardhanan
3) G.Sridhar
4) G.Balaji
5) G.Abirami
6) Sripriya @ Arthi
7) Kokilavani .. Petitioners/Defendants

Vs

Narasimhan .. Respondent/Plaintiff

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal Order dated 23.10.2017 made in I.A.No.732 of 2017 in O.S.No.92 of 2012, on the file of District Munsif Court, Dharmapuri.

For Petitioners : Mr.C.Prabakaran

For Respondent : Mr.C.Munusamy

ORDER

The instant Civil Revision Petition is filed by the petitioners herein, against the fair and decretal Order dated 23.10.2017 made in I.A.No.732 of 2017 in O.S.No.92 of 2012, on the file of District Munsif Court, Dharmapuri.

2. The sole respondent/plaintiff, filed the suit in O.S.No.92 of 2012 before the District Munsif Court, Dharmapuri for declaration of title and permanent injunction against the petitioners. The defendants/petitioners herein has filed an interlocutory Application in I.A.No.732 of 2017 in O.S.No.92 of 2012 before the District Munsif Court, Dharmapuri under Order XIV Rule 5 of CPC, seeking to frame additional issues in the suit.

3. According to the learned counsel for the petitioners, the respondent/plaintiff has relied upon the family partition deed dated 24.01.1964 and registered gift settlement deed dated 19.02.2009. Further, there is no objections raised by the respondent/plaintiff in framing the additional issues raised in the said suit. But, the Court below has erroneously dismissed the application and the same is liable to be set aside.

4. The learned counsel for the respondent would submit that the issues were framed by the Court below and posted for trial. The respondent has filed proof affidavit to let in evidence. Therefore, the Court below has rightly rejected the application filed by the petitioners.

5. Considering the facts and circumstances of the case and on perusal of the records, it is brought to the notice of the Court that the respondent/ plaintiff has himself stated in the plaint in paragraphs 6, 7 & 8 by relying upon the partition deed dated 24.01.1964 and settlement deed dated 19.02.2009. Therefore, the Court below ought to have framed the additional issues raised by the petitioners and the same shall be decided on merits.

6. In view of the above, the impugned order dated 27.10.2017 passed by the learned District Munsif, Dharmapuri in I.A.No.732 of 2017 in O.S.No.92 of 2012 is set aside and accordingly, the Civil Revision Petition is allowed, with the above direction. No costs. C.M.P.No.22472 of 2017 is closed.

सत्यमेव जयते

05.02.2018

Index: Yes/ No

Internet : Yes /No

Speaking Order / Non-Speaking Order

sts

Note: Issue order copy on 08.05.2018

WEB COPY

D. KRISHNAKUMAR J.,

sts

To

The District Munsif Court,
Dharmapuri.



Order in
CRP(PD)No. 4777 of 2017
& C.M.P.No.22472 of 2017

WEB COPY 05.02.2018