



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRP. (MD) .No.1205 of 2014 (PD)
and
M.P. (MD) .No.1 of 2014

1.Narchonai

2.Minor.Vignesh Niranjan

(Represented by his mother and guardian 1st petitioner)

...Petitioners/Respondents/Plaintiffs

Vs.

1.Muruganandam

2.Marimuthu

3.Manimaran

.. Respondents/Petitioners/Defendants
2 to 4

PRAYER: This Petition filed under Article 227 of the Constitution of India to allow this revision and to set aside the order dated 06.01.2014 passed by the Ist Additional Sub Court, Trichirapalli in I.A.No.141 of 2013 in O.S.No.380 of 2010.

For Petitioners : Mr.P.Sesubalan Raja

For Respondents : No Appearance

O R D E R

This Civil Revision Petition is directed against the order passed by the learned I Additional Sub Judge, Tiruchirappalli, in I.A.No.141 of 2013 in O.S.No.380 of 2010, dated 06.01.2014.

2. The learned counsel appearing for the respondents have filed vakalat at the S.R. Stage. Despite the matter was listed and though notice was served on the respondents, today, there is no representation on behalf of the respondents. Hence this Civil Revision Petition is disposed of on merits.

3. The revision petitioners are the plaintiffs in the suit in O.S.No.380 of 2010, on the file of the I Additional Sub Court, Tiruchirapalli. The suit is filed for partition between the parties and for separate possession. The suit properties are described as Item Nos.1 to 4. The first item is to an extent of 1 acre 88 cents in Survey No.80/3 at Perungudi Village, Trichirappalli Taluk.



4. It is stated that the suit properties were purchased by the first plaintiff's father-in-law and that they have enjoyed and earned income from the properties by way of leasing out the same. It is further stated that the first item of suit property was purchased jointly in the name of the father-in-law of the first plaintiff and his wife / first defendant in the suit. It is further stated that the first defendant has no exclusive right over the first item of suit property.

5. During the pendency of the suit, the defendants have filed a written statement. Obviously, the claim of the plaintiffs is disputed. During the pendency of the suit, the defendants filed an application in I.A.No.141 of 2013, directing the plaintiffs to hand over 94 cents on the first item of the suit property to the defendants 2 to 4 or to appoint an Advocate Receiver to manage the suit properties till the final disposal of the litigation. The said petition was allowed by the trial Court.

6. The order passed in I.A.No.141 of 2013, does not disclose the reason for appointing an Advocate Receiver. The Trial Court has not even applied its mind for passing such order. In such circumstances, the order dated 06.01.2014, made in I.A.No.141 of 2013, in O.S.No.380 of 2010, cannot be sustained. This Court, however, is not inclined to go into merits. Therefore, the matter is remitted back to the file of the learned I Additional Subordinate Judge, Tiruchirappalli, for disposal of the application afresh, on merits after giving sufficient opportunities to both parties.

7. Considering the fact that the suit is of the year 2010, it would be appropriate to direct the Trial court to expedite the trial and dispose of the suit in O.S.No.380 of 2010, within a stipulated time limit. Accordingly, the learned I Additional Subordinate Judge, Tiruchirappalli, is directed to expedite the trial and dispose of the suit in O.S.No.380 of 2010 as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

8. The Civil Revision Petition is disposed of accordingly. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-III)



1. The I Additional Subordinate Judge,
Trichirapalli.

2. The Record Keeper,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.P.SESUBALAN RAJA, ADVOCATE IN SR No. 76515

TSG

TE/JM/RSK/SAR-3 : 11/09/2018 : 3P/5C

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