



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.09.2018
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

C.R.P. (MD) (PD) No.102 of 2016
and
C.M.P. (MD) No.464 of 2016

Dr.Suyambu

...Petitioner

/Vs./

1.Vasanthi
2.Savithri Kumaravel
3.Sujatha Kannapiran
4.R.Vinothkumar

...Respondents

Prayer: Civil Revision Petition - filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.12.2015 made in I.A.No.191 of 2015 in O.S.No.10 of 2011 on the file of the III Additional District Court, Tirunelveli and to allow the same by allowing the present civil revision petition.

For Petitioner	: Mr.S.P.Maharajan
For R-2	: Mr.G.Prabhu Rajadurai
For R-3	: No appearance
For R-1 & R-4	: Dismissed vide Court Order dt. 12.07.2018

ORDER

The revision petitioner is the 4th defendant in O.S.No.10 of 2011 on the file of the Third Additional District Judge, Tirunelveli. It is a suit for partition. The revision petitioner filed I.A.No.191 of 2015 for reopening his side to enable to him to adduce evidence. The said I.A., was dismissed by order dated 02.12.2015. Questioning the same, the civil revision petition has been filed.

2. The learned counsel appearing for the revision petitioner submitted that he has filed C.R.P.(MD)No.329 of 2014 and that the same is pending before this Court. It appears that the revision petitioner has not cross-examined the witnesses on the side of the plaintiff and that when he took steps to recall them, the same was allowed on payment of batta and transportation expenses. It appears that the revision petitioner did not deposit the transportation expenses. Therefore, the said I.A., came to be dismissed. The revision petitioner was under the impression that only after he cross-examined the plaintiff witnesses, he can adduce his evidence. Since his side was closed, I.A.No.191 of 2015 came to be filed for reopening.



3. This Court considered the submissions of the learned counsel appearing for the revision petitioner and also went through the grounds set out in the memorandum.

4. It is seen that the revision petitioner has successfully dragged on the proceedings for a number of months. Taking into account his conduct, the Court below has chosen to dismiss I.A.No.191 of 2015. This Court finds no ground to interfere with the said order. Therefore, the civil revision petition is liable to be dismissed.

5. The learned counsel appearing for the revision petitioner submits that the revision petitioner herein is the subsequent purchaser from the defendants 1 and 2. In this case, even the preliminary decree is yet to be passed.

6. In the preliminary decree, only the shares of the parties are determined. Therefore, the revision petitioner would not really suffer any prejudice. The revision petitioner is given liberty to adduce evidence in the final decree proceedings. He can also have the witness of the other side, summoned and cross examined in the final decree proceedings. For this, the preliminary decree proceedings need not be put on hold.

7. With these observations and reserving the revision petitioner's liberty to adduce the evidence at the stage of final decree proceedings, this civil revision petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The III Additional District Judge,
Tirunelveli.

+1CC to Mr.S.P.Maharajan, Advocate, SR.No. 83229

+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No.83609

Order made in

C.R.P. (MD) (PD) No.102 of 2016

10.09.2018

SM

ES/PM/SAR 1/27.10.2018/2P/4C

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