



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

C.R.P. (PD) (MD) .No.1588 of 2016

1.E.A.Sathyamoorthy
2.Niraikulathan
3.Sankara Pandian
4.Muthammal

... Petitioners

Vs.

E.A.Prakash Moorthy

... Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India to allow the Civil Revision Petition by setting aside the fair order and decretal order passed in I.A.No.198 of 2015 in O.S.No.94 of 2013 dated 27.06.2016 on the file of the III Additional District Court, Tirunelveli.

For Petitioners : Mr.S.Meenakshi Sundaram
Senior Counsel
for Mr.K.Karthick

For Respondent : Mr.T.Selvan

ORDER

The first petitioner in this Civil Revision Petition, E.A.Sathya Moorthy, filed O.S.No.425 of 2010 on the file of the Principal District Munsif Court, Sangarankovil, seeking the relief of permanent injunction and declaration that a settlement deed dated 13.08.2010 and a rectification deed dated 25.08.2010, are null and void and for other reliefs. The said suit was originally decreed. It was reversed in appeal. Questioning the same, the first revision petitioner has filed SA(MD).No.243 of 2013. The said Second Appeal is still pending.

2.In the meanwhile the second defendant in O.S.No.425 of 2010 namely Prakash Moorthy filed O.S.No.94 of 2013 before the III Additional District Judge, Tirunelveli, seeking the relief of partition. The first revision petitioner herein is shown as the first defendant in the said suit. A mere look at the cause of action in paragraph-14 of the plaint in O.S.No.94 of 2013 would show that the suit filed by the respondent predicated entirely on the aforesaid settlement deed dated 13.08.2010 and the rectification deed dated 25.08.2010.



3. Contending that the suit filed by the respondent herein should be put on hold, the revision petitioners filed I.A.No.198 of 2015. The Court below by order dated 27.06.2016, dismissed the said I.A. The correctness of the said order is challenged in this Civil Revision Petition.

4. Heard learned senior counsel appearing for the revision petitioners and the learned counsel appearing for the respondent. The learned counsel on either side produced a host of authorities.

5. This Court is of the view that the suit filed by the respondent herein is based on the settlement deed and the rectification deed. Admittedly, the validity of the said documents is under consideration in the Second Appeal filed by the first revision petitioner herein. If the Second Appeal is allowed in favour of the first revision petitioner herein, then the aforesaid documents would stand nullified. In that event the very foundation for the present partition suit will go. There is a broad identity of the issues between both the suits.

6. Though, as pointed out by the learned counsel for the respondent, the cause of action may be different, but then in view of the aforesaid broad identity and overlapping of issues between both the suits, this Court is of the view that the proceedings in O.S.No.94 of 2013 will have to be stayed till the disposal of S.A.No.243 of 2013.

7. In this view of the matter, the order impugned in this Civil Revision Petition is set aside and this Civil Revision Petition is allowed.

8. Taking note of the fact that the parties have been litigating for more than eight years, the registry is directed to list S.A.(MD)No.243 of 2013 before the concerned portfolio Judge at an early date.

9. With this direction, this Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-III)

To:

<https://hcservices.ecourts.gov.in/hcservices/>
1. Regional District Judge,
Tirunelveli.



2.The Sub Judge, Sangarankovil.

3.The Principal District Munsif,
Sangarankovil.

Copy To:

1.The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

2.The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai.

3.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

+1CC to Mr.K.Karthick, Advocate, SR.No.87903

+1CC to Mr.T.Selvan, Advocate, SR.No.87749

C.R.P. (PD) (MD) .No.1588 of 2016
28.09.2018

PNN

ES/PM/SAR 3/08.11.2018/3P/10C