



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.17 of 2016

Balasubramanian
Petitioner/Plaintiff

.. Petitioner/

vs.

1.Sangaralingam
2.Bala Sureswaran alias Murugalingam
3.Chinnaswamy
4.Muniyandi

.. Respondents/Respondents/
Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 05.02.2013 in I.A.No.1752 of 2011 in O.S.No.545 of 2006 on the file of the Additional District Munsif Court, Srivilliputhur.

For Petitioner : Ms.S.Srimathy
for M/s.S.M.S.Johnny Basha
For Respondent No.3 : Mr.S.Jawahar
For Respondents 1,2 & 4: No appearance

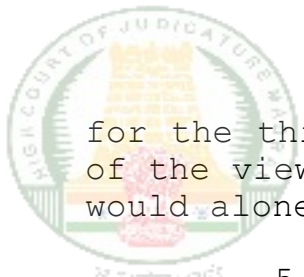
ORDER

The plaintiff in O.S.No.545 of 2006 on the file of the learned Additional District Munsif, Srivilliputhur is the revision petitioner herein. It is a suit for partition. The suit was dismissed for default. To restore the same, the revision petitioner filed an application under Order 9 Rule 9 of CPC. There was a delay. To condone the same I.A.No.1752 of 2011 was filed. The Court below by order dated 05.02.2013 dismissed the same. Questioning the said order, the Civil Revision Petition has been filed.

2. Heard the learned counsel for the revision petitioner .

3. The Civil Revision Petition was vehemently opposed by the learned counsel for the third respondent. The third respondent pointed out as on date, the revision petitioner has no subsisting right over the suit property. He also contended that the third respondent herein has instituted a suit in O.S.No.15 of 2012 against the revision petitioner and the same has been decreed.

4. Therefore, he would point out that there is nothing to be restored. But then the facts now put forth by the learned counsel



for the third respondent appear to be subsequent developments. I am of the view that this being a suit for partition, restoring the same would alone give quietus to the dispute between the parties.

5. In this view of the matter, the order impugned in the Civil Revision Petition is set aside. The Court below is directed to number the application filed under Order 9 Rule 9 and allow the same. The suit shall be restored to file. Since the suit is of the year 2006, the suit shall be disposed of within a period of three months from the date of receipt of a copy of this order.

6. With these direction, this Civil Revision Petition is allowed. No Costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-III)

PJL

To
1.The Additional District Munsif Court,
Srivilliputhur.

2. The Section Officer, (2 COPIES)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.M.S.Johnny basha, Advocate in SR NO.82868

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NM/RP/SAR III/12.11.18/2P/5C