



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.04.2018

Pronounced on : 30.07.2018

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) (PD) No.2157 of 2016

and

CMP (MD) No.10064 of 2016

Ramasamy (Died)

1.Alagumalai

2.R.Sivakami

3.R.Manikandan

4.R.Balasubramani

5.R.Vellaichamy

.. Petitioners/ Respondents 2 - 6/
Plaintiffs 2 - 6

vs.

1.Muthammal (Died)

2.Karuppaiah

.. Respondents/Petitioners/Defendants

(Memo in USR.6669/17 dated 23.6.16 to

the effect that R1 died, and the R2 is the

LRS of the deceased 1st Respondent has

already on record is recorded, vide Court

order dated 27.2.17, made in CMP (MD)

No.10064 of 2016 in CRP (MD) No.2157/16.)

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and Decretal Order dated 26.08.2016 passed in I.A.No.530 of 2016 in O.S.No.1364 of 2004 on the file of the Additional District Munsif Court, Dindigul.

For Petitioners : Mr.M.R.Sreenivasan

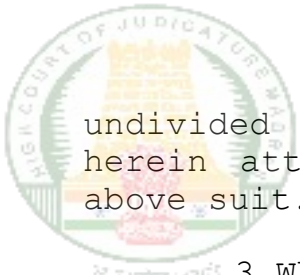
For Respondents : Mr.R.R.Kannan (for R2)

R1 - Died

ORDER

Aggrieved over re-opening of the suit in O.S.No.1364 of 2004 on the file of the learned Additional District Munsif Court, Dindigul, and the Petitioners herein who are Plaintiffs of the suit is before this Court by way of this Civil Revision Petition.

2. The above suit in O.S.No.1364 of 2004 was filed by the Revision Petitioners as against the Respondents for the Relief of partition. According to the Revision Petitioners, they have 2/3rd



undivided share over the suit property, however the Respondent herein attempted to defeat the Petitioner's share, therefore the above suit.

3. When the above suit remained posted for Judgment, the Respondent / Defendant filed an application in I.A.No.530 of 2016 seeking to reopen the main suit, so as to permit them to produce an order of this Court made in CRP.No.199 of 2006 and also to furnish some materials documents as to the transaction taken place between the Respondents and their Pangalies to bring some facts before the Trial Court, thereby to avoid multiplicity of proceeding and to ensure the complete adjudication.

4. It is the case of the Revision Petitioner that the said application filed by the Respondents to reopen the suit is solely intended to protract the proceeding and thereby to create much hardship and irreparable loss by tracking the suit erroneously.

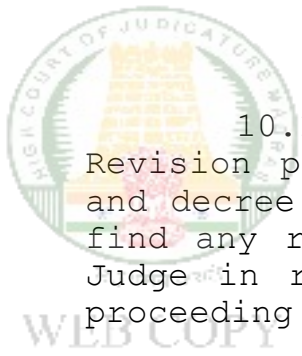
5. In fact earlier over the similar applications made twice by Revision Petitioners, when the suit was posted for arguments, the Trial Court has reopened the case on 21.01.2014 and 25.03.2015 vide I.A.Nos.82 and 83 of 2012 and I.A.Nos.607 and 608 of 2014. Therefore, the third attempt now made by the Respondents is unfair, illogical, irrelevant and unsustainable both on factual and legal grounds.

6. I heard Mr.M.R.Sreenivasan, learned counsel for the petitioners and Mr.R.R.Kannan, learned counsel for the 2nd respondent and perused the entire materials available on record.

7. Per contra, the learned counsel for the Respondents would submit that the above application was filed only for the purpose of bringing notice to the knowledge of the Trial Court, some vital documents and transactions and the order of Civil Revision Petition made in C.R.P.No.199 of 2006, which are indispensable to decide the lis. Only on rightly appreciating the fact, the learned Trial Judge was pleased to allow the Revision Petitioners' application in I.A.No.530 of 2016 to reopen the case.

8. On hearing upon the rival submission and on careful perusal of the impugned order, this Court finds that the Trial Court by holding that since the documents sought to be produced pertains to earlier suit in O.S.No.210 of 1997 on the file of the learned Additional District Munsif Court has thereby re-opened the case for production of such suit proceeding and documents.

9. This Court on perusal of the instant Plaint in O.S.No.1364 of 2004 finds that even according to the pleading of the Revision Petitioners/Plaintiffs, their case is that they are entitled for the relief of partition of 2/3rd undivided share by virtue of the judgment and decree made in O.S.No.210 of 1997.



10. In such occasion this Court having found that even the Revision petitioners case being claimed in line with the Judgment and decree of earlier suit in O.S.No.210 of 1997, this Court do not find any reason to interfere with order made by the learned Trial Judge in re-opening the case on hand for production of such suit proceeding and relevant records thereon.

11. It is needless to say if the above application is disallowed, the same may result in multiplicity of proceedings and which may also not result in complete adjudication.

12. In the result, the Civil Revision Petition fails and the same is hereby dismissed. However taking into account of long pendency of the suit for 14 Years, the Trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The Additional District Munsif,
Dindigul.

+1cC to Mr.R.Nandhakumar Advocate in sr.no.75713.

+1cC to Mr.R.R.Kannan Advocate in sr.no.75748.

VSV
DS/SKN/SAR-3 :27.08.2018: 3P/4C

C.R.P. (MD) (PD) No.2157 of 2016
and
CMP (MD) No.10064 of 2016
30.07.2018