



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.03.2018

CORAM:

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THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD).No.748 of 2011 (PD)
and

M.P(MD).No.1 of 2011 and CMP(MD) No.10036 of 2016

1.Sedhumadhavan

2.Govindaraj

3.Vijaya Raghavan

... Petitioners/Respondents 1 to 3/
Defendants 1 to 3

Vs.

V.Kasilingam (died)

1.K.Mala

2.K.Nithya

3.K.Sasirekha

4.K.Prem Anand

5.K.Sarmila Nayagi

...Respondents 1 to 5/Petitioners 1 to 5 /
Plaintiffs 1 to 5

6.Kesavan

... 6th Respondent/4th respondent /
4th defendant

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, against the fair and decreetal order dated 11.01.2011 passed in I.A.No.381 of 2004 in O.S.No.112 of 2003 on the file of the Sub Court, Palani, Dindigul District.

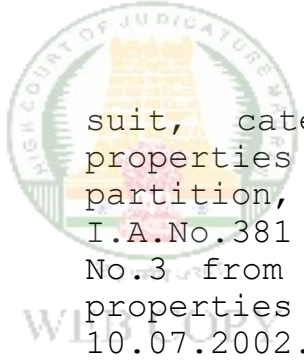
For Petitioner : Mr.S.Meenakshi Sundaram

For Respondents : Mr.S.Anand Chandrasekar - R1 & R4
for M/s.Sarvabhauman Associates

: No Appearance - for R2, R3, R5 and R6

O R D E R

This Civil Revision Petition has been preferred against the fair and decreetal order, dated 11.01.2011, passed in I.A.No.381 of 2004 in O.S.No.112 of 2003 on the file of the Sub Court, Palani, Dindigul District.



suit, categorically averred in the plaint that the plaint schedule properties are in joint possession and enjoyment without any partition, the plaintiffs filed the interlocutory application in I.A.No.381 of 2004 seeking amendment of the plaint to delete item No.3 from the plaint schedule properties on the ground that the properties in item No.3 were already partitioned on 29.05.1995 and 10.07.2002.

3. In the counter-affidavit filed by the defendants, it is stated that the proposed amendment is highly prejudicial and the same would affect the rights of parties and totally displace the case of the defendants and hence, prayed for dismissal.

4. After hearing both sides, the trial Court has allowed the application in I.A.No.381 of 2004, aggrieved which, the present Civil Revision Petition has been filed by the defendants 1 to 3.

5. Heard the learned Counsel on either side and perused the materials available on record.

6. On perusal of records shows that already there was a partition deed entered between the original plaintiff (died) and the defendants' father and accordingly, third item of the property was allotted to them equally and half share was allotted to defendants' father, on which land acquisition proceedings have been taken and the defendants' father have also received compensation amount and these facts came into light only pending suit.

7. The defendants have taken proceedings before the Revenue Divisional Officer, then only the initiation of earlier proceeding with regard to the division of the properties and issuance of patta came into light. On the basis of earlier proceedings that were taken place in respect of the third item of the property, the petitioners/plaintiffs have sought for removal of the third item which comprises in Survey No.152/1 and 153, for which the respondents have made objections. The parties were also examined and they deposed about the acquisition of the properties and issuance of patta, before the Trial Court. The Trial Court, after considering the relief sought by the plaintiffs for removal of third item from the description of the suit properties, had allowed the petition. The Trial Court has passed the order, based on the documents that were related to the earlier proceedings regarding the suit 3rd item. Hence, in my considered opinion, the learned Trial Judge was right in allowing the application filed by the plaintiffs and the same does not warrant any interference.



8. In the result, finding no merit, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (T&P)

Sub-Assistant Registrar

To:

The Subordinate Court, Palani.
Dindigul District.

+One cc to M/s.Sarvabhauman Associates, Advocate, SR.No.52681

+One cc to M/s.R.Manimaran, Advocate, SR.No.52707

rm
RL/4C/3P/KKR/SAR1/20/3/2018

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