

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.Nos.3517 & 3913 of 2010
and M.P.No.1 of 2010 in C.R.P.No.3517 of 2010

1.Rengammal @ Renganayaki
2.Vimala
3.Balasubramaniam
4.Vasanthi
5.Selvam

... Petitioners

Vs.

Sowdammal (Died)
1.S.Vijayakumar
2.Janab M.Moosa
3.Kunji Mohammed
4.Alamelammal
5.Santhmmal
6.Sowdammal
7.Dhannamal
8.Lakshmi
9.Nagammal
10.Sarojini
11.Ramammal

.... Respondents

Petitions filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 18.12.2009 in I.A.Nos.1450 & 1449 of 2008 in I.A.No.285 of 2006 in O.S.No.849 of 1973 on the file of the Principal District Munsif Court, Coimbatore.

For Petitioners : Mr.C.R.Prasanan (in both C.R.Ps)

For Respondents : Mr.A.E.Ravichandran (R1)

(in both C.R.Ps)

R8 - no appearance (in both C.R.Ps)

R2 to R7, R9 & R10 - given up

vide order dated 11.11.2019

COMMON ORDER

Challenging the fair and final orders passed in I.A.Nos.1449 & 1450 of 2008 in I.A.No.285 of 2006 in O.S.No.849 of 1973 on the file of the Principal District Munsif Court, Coimbatore, the defendants 12 to 16 have filed the above Civil Revision Petitions.

2. One Sowdammal filed the suit in O.S.No.849 of 1973 for partition and other reliefs. A preliminary decree for partition was passed on 29.03.1975 granting 7/36th share to the plaintiff and allotting 1/6th share to each one of the defendants 7 to 10 in the suit property. Pursuant to the preliminary decree passed in the suit, the plaintiff filed a final decree application in I.A.No.2355 of 1984. However, the same was not pursued by the plaintiff. Thereafter, another final decree application in I.A.No.285 of 2006 was filed by the plaintiff and the 1st respondent. Subsequently, the plaintiff Sowdammal had died and the 1st respondent was prosecuting the final decree application. The trial Court passed the final decree on 28.04.2008. Thereafter, the revision petitioners filed applications in I.A.No.1449 of 2008 to re-open and I.A.No.1450 of 2008 to review the final decree dated 28.04.2008. In the affidavit filed in support of the petitions, the petitioners/defendants 12 to 16 have stated that the counsel namely Mr.Govindaraju had represented before the trial Court that the defendants have no objection for passing of the final decree. It is the contention of the petitioners that no authority was given to the junior counsel for making such a representation before the trial Court and on his own, he has made such a representation. It is not in dispute that the said Mr.Govindaraju was the junior of the petitioners' counsel namely Mr.K.S.Venkatesamoorthy. It is also brought to the notice of this Court that the petitioners have not initiated any action against the said Mr.Govindaraju.

3. The learned counsel appearing for the 1st respondent submitted that pursuant to the final decree passed on 28.04.2008, the revision petitioners/defendants 12 to 16 have sold the property to one Ms.M.Kavitha by a registered Sale Deed dated 14.07.2010 and therefore, it is clear that the petitioners have accepted the final decree passed in I.A.No.285 of 2006. The learned counsel also produced a copy of the Sale Deed dated 14.07.2010.

4. On a perusal of the Sale Deed dated 14.07.2010, it is clear that the petitioners undertook to pursue the appeal filed as against the preliminary decree passed in O.S.No.849 of 1973 and also the proceedings initiated in I.A.No.285 of 2006. When the petitioners have sold the property pursuant to the final decree passed in I.A.No.285 of 2006, it is clear that the petitioners have accepted the final decree passed on 28.04.2008 and also acted upon the same. That apart, the petitioners have not made out a case for reopening and reviewing the final decree passed on 28.04.2008. When the petitioners' contention is that Mr.Govindaraju, Advocate has represented that the defendants

have no objection without any instructions from them, the petitioner should have initiated appropriate action against him. However, they chose not to initiate any action against the said counsel. That being the case, the petitioners' case cannot be accepted. The trial Court, taking into consideration all these aspects, rightly dismissed both the applications.

5. In these circumstances, I do not find any error or irregularity in the orders passed by the trial Court. The Civil Revision Petitions are devoid of merits and the same are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Principal District Munsif,
Coimbatore

+2 cc to M/s.C.R.Prasanan, Advocate Sr.Nos.93530 & 93531
+1 cc to M/s.A.E.Ravichandran, Advocate Sr.No.93444

AKM/17.12.19/3P-5C/

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