

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.401 of 2019

B. Thilagavathi

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Petitioner/Petitioner/
Plaintiff

-VS-

1. R. Baskaran
2. G. Pangajam
Saraswathi (Deceased)
3. K. Thiruganam
4. K. Somasundaram
5. T. Dhanalakshmi
6. B. Suseela
7. Baby @ Palaniammal
N.K. Sadasivan (Deceased)
N.K. Shanmugam (Deceased)
8. A. Banumathi
9. N. Ramalingam,
10. Tamilselvi
11. Deivanai
12. Subashini
13. Mohanavalli
14. Mohanambal
15. S. Loganayaki
16. S. Rajeshwal
17. S. Malathi
18. Sakthikumaravel
19. Manishankar
20. Suchitra
21. B. Shanmugavel
22. Radhika
23. G. Rajasekaran

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Respondents/Respondents
/Defendants

PRAYER:

Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, against the fair and Decreetal Order passed in I.A.No.462 of 2018 in O.S.No.87 of 2010 dated 27.11.2018 on the file of learned Additional Subordinate Judge, Erode, Erode District.

For Petitioner : Mr.R. Jayaprakash
For Respondents : Mr. R. Karthikeyan
learned Caveator counsel
for R1 and R21

ORDER

The above Civil Revision Petition is filed challenging dismissal of the petition filed seeking to examine the Defendants in this suit as well as the learned Advocate who appeared on their behalf of as witnesses.

2. The plaintiff had filed a suit for declaration that the Release/Sale Deed executed in favour of the 1st defendant is null and void and to divide the properties. When the suit was posted for the trial and the cross examination of the witnesses commenced, I.A.No.462 of 2018 has been filed by the plaintiff and the reasons for taking this application has been stated in

paragraph No.3 in the affidavit filed in support of the I.A.No.462 of 2018 which reads as follows:

" 3.....Now I am in need of to prove my case I have to elucidate some important evidence on my side and for that I have to examine witnesses on my side with regard to the Ex.A24 document which denotes 7th item of suit property. After filing the suit only the Ex.A24 was executed by D-24. So it is absolute necessary for me to reopen the case for plaintiff side evidence for examination of witnesses. For that I have filed an application to reopen this case for plaintiff side evidence in I.A.No.419/2018 before this Hon'ble Court. And this Hon'ble Court was pleased to allow the application on 01.11.2018 and ordered to appearance of witnesses."

3. The witnesses that the plaintiff now seeks to examine are 12th defendant and the 24th defendant and the learned counsel appearing for them. As rightly pointed out by the Trial Court any transfer pending the suit by the plaintiffs, is hit by the provisions of Section 52 of the Transfer of Property Act. The main relief sought is one for declaring the Release Deed executed in favour

of 1st defendant as null and void. Further examining these witnesses are not germane for the disposal of the suit or considering the issues involved in the case , I do not find any infirmity in the order passed by the learned Additional Subordinate Judge, Erode, Erode District. Consequently the Civil Revision Petition stands dismissed. No costs.

07.02.2019

jrs/tta
Index : Yes/No
Internet : Yes / No
Speaking/non-speaking order



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P.T.ASHA.J.,

jrs/tta

To

The Additional Subordinate Judge, Erode,
Erode District



C.R.P.(PD).No.401 of 2019

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