

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.4816 of 2013 and
M.P.No.1 of 2013

1. Mr.Manoharan
2. Tmt. Jayanthi
3. Tmt. Lalitha
4. Mr.Kothandan

... Petitioners

V.

Cheyllammal

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India,
against the order dated 06.06.2013 made in I.A.No.1160 of 2012 in
O.S.No.117 of 2012 on the file of the District Munsif Court, Ponneri.

For Petitioners : Mr. G.Thangavel

For Respondent : Mr. T.P. Sekar

ORDER

Challenging the fair and final order passed in I.A.No.1160 of 2012 in O.S.No.117 of 2012 on the file of the District Munsif Court, Ponneri, the defendants 1 to 4 have filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.117 of 2012 for partition and for other reliefs. The defendants 1 to 3 filed their written statement and are contesting the suit.

3. The defendants also filed an application in I.A.No.1160 of 2012 under Order VII, Rule 11 of C.P.C. to reject the plaint. In the affidavit filed in support of the application, the defendants have stated that the plaintiffs have undervalued the suit under section 37(2) of the Tamil Nadu Court Fees Act. Further, the defendants contended that since the plaintiff got married in the year 1958, she lived in various places and not in the place where the suit properties are situated and that the provisions of succession by survivorship for equal rights to daughter in co-parcenary property shall not apply to daughters married before the

date of commencement of the Hindu Succession (Tamil Nadu Amendment) Act, 1989 and that the suit is not maintainable. The plaintiff filed her counter and contested the application.

4. The Trial Court, taking into consideration the case of both the parties, dismissed the application.

5. The learned counsel on either side submitted that after the filing of the written statement by the defendants, issues were framed and the suit was listed for trial and after the completion of the evidence of P.Ws, the suit is posted for cross examination of D.W.1.

6. On a perusal of the affidavit filed in support of the application filed under Order VII, Rule 11 of C.P.C., it is clear that the issues can be decided after a full-fledged trial. I do not find any error in the order passed by the Trial Court. When the suit is taken up for trial and the same is posted for cross examination of D.W.1, the issues raised by the defendants in the written statement can be decided after the full-fledge trial. Since the suit is pending from 2012, I direct the District Munsif Court, Ponneri, to dispose of the suit in O.S.No.117 of 2012, on

merits and in accordance with law, within a period of three months, from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

24.09.2019

Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

The District Munsif Court,
Ponneri.



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M.DURAISWAMY, J.

Rj



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