

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

CRP (PD) NO.1992 OF 2019

AND

CMP NO.12962 OF 2019

M/s.Kalyan Jewellers India Ltd.
Having its registered office at
TC/32/204/2, Sitaram Mill Road,
Punkunnam, Thrissur - 680 002.
Represented by its authorised Signatory
Sijo Jacob

... Petitioner

Vs.

- 1.K.Jamuna Rani
- 2.S.Kamalam (died)
- 3.S.Krishnaveni
- 4.S.Yasodha
- 5.R.Maheshwari
- 6.L.Lalitha
- 7.S.Poovathal
- 8.M.Dhanasekaran
- 9.E.Rukmani
- 10.K.Sundarrajan

... Respondents

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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed, returning the application numbered as IA Sr.741 of 2019 in I.A.702 of 2013 in O.S.No.219 of 2007 on the file of the court of the IV Additional District Judge (Fast Track Court No.2) of Coimbatore; (b) further direct the Court of the IV Additional District Judge (Fast Track Court No.2) of Coimbatore to number, try and entertain the interlocutory application in IA Sr.741 of 2019 in IA.702 of 2013 in O.S.No.219 of 2007 filed by the petitioner and pass orders thereon, before continuing with the final decree proceedings.

For Petitioner : Mr.A.R.L.Sundaresan
Senior Counsel for M/s.Preeti Mohan

ORDER

In a suit filed by the first respondent to divide the suit property into ten equal shares and allot 1/10th share in her favour, a preliminary decree came to be passed. Accordingly, the first respondent is entitled to 1/10th share and ninth respondent is entitled to 1/5th share in the 2nd item of the suit property. Other defendants filed a memo accepting 1/10th share in the property. The petitioner is the purchaser of the shares allotted to defendants 1 to 4, 6 and 7.

2. However, learned Senior Counsel appearing for the petitioner would submit that the petitioner purchased shares from the defendants 1 to 4, 6 and 7 by way of sale deeds. The petitioner filed an interlocutory application to incorporate his entitlement and to draw a fresh preliminary decree. The Trial Court, even without numbering the said interlocutory application, has returned it as to how the petition is maintainable. Aggrieved over the same, the petitioner is before this Court.

3. When a petition is returned to show its maintainability, besides the relevant provisions of law, it is the duty of the petitioner to comply with the return and represent it before the Court.

4. The learned Senior Counsel appearing for the petitioner would submit that the Trial Court is going to pass final decree, which will defeat the interest of the petitioner in the suit property. Therefore, he seeks that a direction may be issued to the Trial Court to number the petition and dispose of the same on merits.

5. Considering the submissions made by the learned Senior Counsel appearing for the petitioner and also considering the facts and

circumstances of the case, a direction is issued to the petitioner to represent the petition, after complying with all the returns. On such representation, the Trial Court is directed to number the petition and dispose of the same, after issuing notice and affording an opportunity to all parties concerned. Till such time, there shall be an order of interim stay of passing final decree.

6. Registry is directed to return the originals of the petition to the petitioner enabling them to represent it before the Trial Court.

7. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected civil miscellaneous petition is closed.

24.06.2019

Index : Yes/No
Internet : Yes/No
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To

The IV Additional District Judge
(Fast Track Court No.2)
Coimbatore.



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M.GOVINDARAJ, J.

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