

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM:

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

Civil Revision Petition (PD) No.184 of 2014

and

M.P.No.1 of 2014

Manipillai @ Govindasamy

Petitioner

Vs

1. Selladurai
2. Chitra
3. Murugan
4. Suriyadoss
5. Saroja
6. Jayaraman
7. Krishnasamy Pillai
8. Vijayalakshmi
9. Muruganandam @ Tamilselvan
10. Manimala
11. Mohanammal
12. Danalakshmi
13. Rajendran
14. Govindammal
15. Rajakumary
16. Danasekar
17. Annalakshmi
18. Caroupaya Poulle
19. Sandiraganda
20. Thilaka
21. Danalakshmi
22. Thaiyalnayagi
23. Manickam
24. Aathilakshmi
25. Navaneetham
26. Saroja
27. Mageswari @ Marimuthammal
28. Ganesan
29. Vijaya
30. Latha @ Nagarethinam
31. Murugesan

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decretal order dated 08.06.2012 passed in I.A.No.1 of 2012 in O.S.No.1 of 2012, on the file of District Court, Karaikal.

For Petitioner : Mr.N.G.Prasanna

For Respondent : For R 28 & R31- Mr.K.P.Jotheeswaran
For R1 to R 27,
R29 & R30 - No appearance

ORDER

The petitioner herein is the plaintiff in OS No.1 of 2012 on the file of District Court, Karaikal. As a plaintiff, he has filed a Suit as against the respondents herein and seeks the relief to cancel the decree and judgment passed in OS No.52 of 2009 dated 12.10.2009, passed by the learned Additional District Judge, Puducherry at Karaikal. Pending the suit, the petitioner herein has filed an application in IA No.1 of 2012 with a prayer to stay all further proceedings in OS No.52 of 2009 including the issuance of engrossed Final decree in the Non Judicial Stamp Papers to the 28th and 31st respondents herein.

2. The learned District Judge, Karaikal, in an order dated 08.06.2012 has dismissed the application filed by the petitioner by observing that final decree has already been passed in O.S.No.52 of 2009 and the engrossing of final decree in non-judicial stamp paper is also over.

3. Challenging the said order, the petitioner is before this Court with the present Civil Revision Petition and seeking the relief of stay.

4. Today, when the petition is came up for hearing, the learned counsel appearing for the petitioner would contend that the respondents 28 and 31 have filed a suit for partition collusively among themselves in OS No.52 of 2009 showing that the entire properties belong to the legal heirs of Caliapoulle @ Kalimuthu Pillai. As if they are the sons of one Rathinasamy, who was the only son to the said Caliapoulle @ Kalimuthu Pillai and after his demise on 18.10.2009, the respondents 28 & 31 alone are the legal heirs of the deceased Rathinasamy. Further, the learned counsel would submit that the Rathinasamy died on 23.05.1974 and that Marinuthammal gave birth to 8 children, in which, 6 male and 2 female and the respondents 28 & 31 after his 8th issue of late Kalimuthu Pillai and Marimuthammal. As such, the respondents 28 & 31 suppressed these facts and filed suit and obtained partition decree. Hence, the learned counsel submitted that the entire proceedings ought to have stayed by the learned District judge.

WEB COPY

5. On the other hand, the learned counsel appearing on behalf of the respondents would contend that after passing final decree, no executable order is pending as against the petitioner, which would operate adverse to the interest of the petitioner. So, the application filed by the petitioner before the trial court is infructuous one.

6. Submissions made by either side counsel are considered.

7. It is true that after engrossing the final decree in non judicial stamp paper, there is no executable order is pending as against the petitioner. So, without any executable order pending adverse to the interest of the petitioner, stay is not necessary. The only option available to the petitioner is that the petitioner has to challenge the final decree before the appropriate forum. The said circumstances reveal the fact that the prayer sought for by the petitioner before the trial Court has become infructuous one. Hence, it cannot be said that the order passed by the trial Court is having material irregularity.

8. Therefore, in view of the above reasons, the Civil Revision petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

vrn

14.10.2019

To

The District Court, Karaikal.

सत्यमेव जयते
WEB COPY

R.PONGIAPPAN, J.,

vrn



Civil Revision Petition Petition (PD) No.184 of 2014
and
M.P.No.1 of 2014

WEB COPY

14.10.2019