

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P. (PD) No.2864 of 2014

and

M.P. No.1 of 2014

S.Chandramohan

... Petitioner

Vs.

1. A. Arumugam
2. A. Murugan
3. A. Ayyasamy
4. A. Purushothaman
5. A. Amirtharaj
6. A. Sivakozhundu
7. A. Varadharajan
8. V. Renuga
9. A. Arunthathi
10. S. Punithavalli
11. O.Savithri
12. S.Sudamani
13. The Joint Sub Registrar,
Thirupapuliyur
Cuddalore – 2.

14. The Sub Registrar,
Parangipetti.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 01.04.2014 in I.A. No.658 of 2013 in O.S. No.24 of 2013 on the file of the Principal District Judge, Cuddalore district, Cuddalore.

For Petitioner : Mr.Aishwarya
for M/s.Srinath Sridevan

For Respondents : Mr.R. Gururaj for R1
R3 to R14 – No appearance
Rw – Not ready in notice

ORDER

The instant Civil Revision petition has been filed under Article 227 of the Constitution of India, challenging the order, dated 01.04.2014 passed by the Principal District Judge, Cuddalore district, Cuddalore in I.A. No.658 of 2013 in O.S. No.24 of 2013.

2. The petitioner was impleaded as 13th defendant in the suit, by order dated 28.02.2013 in I.A. No.119 of 2013. He also filed I.A. No.658 of 2013 in O.S. No.24 of 2013 to strike off the second item of the suit 'G' schedule property, as it is claimed that he is the absolute owner of the suit 'G' schedule property and that item of the properties cannot be a subject matter for partition. The suit was filed by the 1st and 2nd respondents / plaintiffs. The first respondent is father and the second respondent is his son.

3. It is now represented by the learned counsel for the respondents that the suit has been withdrawn by the 1st respondent /1st plaintiff. However, the second respondent, who is his son has filed

an application to restore the suit, which was withdrawn by the 1st respondent / 1st plaintiff without his knowledge. However, it is also represented by the learned counsel for the respondents that the said application has not been numbered yet. The learned counsel for the petitioner however, seeks a direction from this Court to grant liberty to the petitioner to revive the application filed under Order VI Rule 16 of CPC read with 151 CPC to delete the second item of G schedule from the list of the schedule properties given in the plaint filed in O.S. No.24 of 2013, if and when the suit is restored at the instance of the second respondent / second plaintiff.

4. This Court finds force in the submission of the learned counsel for the petitioner and is of the considered view that no prejudice would be caused to the respondents 1 and 2, if the liberty sought for by the petitioner is granted by this Court.

5. For the foregoing reasons, the following directions are passed:

a) The petitioner is granted liberty to file an application under Order VI Rule 16 CPC read with 151 CPC to delete the second item of G schedule from the list of the schedule properties given in the plaint filed in O.S. No.24 of 2013, if and when the suit is restored to file of the Trial Court. However,

the respondents are also permitted to raise all defences / objections and the Trial Court shall pass orders in the said application on merits and in accordance with law.

b) It is made clear that the suit once restored to file, the Trial Court is directed to array the petitioner as one of the defendants in the suit, since the petitioner has already been impleaded as the defendant in the suit by order, dated 28.02.2013 in I.A. No.119 of 2013.

6. With the aforesaid directions, the Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

17.07.2019

Internet : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vsi2

To
The Principal District Judge,
Cuddalore district,
Cuddalore.

ABDUL QUDDHOSE, J.



C.R.P. (PD) No.2864 of 2014

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