



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.09.2019
CORAM:
THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CRP (MD) No.1637 of 2019

and

CMP (MD) No.8550 of 2019

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V.Subramanian

... Petitioner

versus

1. Subramanian & Co.

Thanjavur

Rep. by its Managing Partner,

SP.Valliappan

S/o.Subramania Chettiyar,

Having his office in the

Business Premises of Lakshmi Seeval,

Lakshmi Nagar,

Madical College Road,

Thanjavur District and Munsif.

2. SP.Valliyappan

3. V.Anandhi

SP.MPI Muthupalaniappan (died)

SP.Annamalai (died)

4. A.Subramanian

5. Sedhukkarasi

6. Kamala

... Respondents

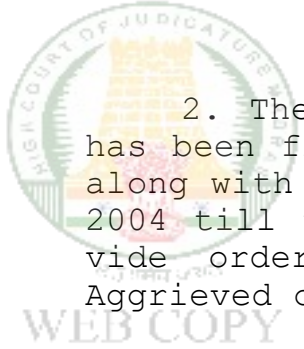
Revision Petition filed under Article 227 of the Constitution of India, against the order dated 22.07.2019 passed in I.A.No.76 of 2019 in O.S.No.138 of 2004 on the file of the District Munsif, Thanjavur.

For Petitioner :M/s.G.Karnan

ORDER

This Civil Revision Petition has been filed challenging the order dated 22.07.2019 passed in I.A.No.76 of 2019 in O.S.No.138 of 2004 on the file of the District Munsif, Thanjavur.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The application in I.A.No.76 of 2019 in O.S.No.138 of 2004 has been filed by the revision petitioner, who is the 5th defendant along with other defendants to stay the proceedings in O.S.No.138 of 2004 till the disposal of Tr.O.P.No.169 of 2018. The Court below, vide order dated 22.07.2019, dismissed the said application. Aggrieved over, the present Civil Revision Petition has been filed.

3. According to the revision petitioner, a suit in O.S.No.49 of 2018 has been filed by one Mrs.Kamala, who is the legal heir of S.P.Annamalai for partitioning the joint family property. In the said suit, the plaintiff Mrs.Kamala claimed that the first respondent Partnership Firm has been created out of the joint family properties and therefore, that properties be included in the suit schedule properties. But, the suit was filed by the father of Mrs.Kamala for dissolution of the first respondent partnership firm. Since the issue in the present suit and the suit in O.S.No.49 of 2019 are same and hence, the revision petitioner filed Tr.O.P.No.169 of 2018 for joint trial. Further, in order to avoid controversy, the present suit be stayed.

4. The revision petitioner herein is the 5th defendant in the suit in O.S.No.138 of 2004 and his father, namely, Valliappan, is also one of partners of the Firm and he is the second defendant. The suit in O.S.No.138 of 2004 has been filed only for the purpose of dissolution of firm and for rendering proper accounts of the firm. Since the revision petitioner's father is also one of the party in O.S.No.49 of 2018, the interest of the revision petitioner is in no way going to be affected and furthermore, the present suit has been filed only for the purpose of dissolution of firm and refund of accounts. Whereas that subsequent suit has been filed for the purpose of partition. The partners in the present suit are only the family members and they themselves formed the present partnership firm.

5. According to the respondents, it is an admitted fact that the partnership firm has been created out of the joint family properties. However, all the members of the family were representing their respective shares in the firm. So, therefore, there is no need for any partition. Once the Partnership Firm is dissolved, their respective shares will go to the respective family members. Therefore, this Court is of the view that the order of joint trial will create further confusion.

6. In fact, the revision petitioner and his father are also partners in the said Firm and therefore, their interests are in no way going to be affected. Further, the revision petitioner contended that the suit is posted for Judgment today. Therefore, this Court does not find any infirmity in the order passed by the Court below. The Court below appreciated all the facts and passed a detailed order. Hence, the Civil Revision Petition is not maintainable and the same is liable to be dismissed.



7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

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Sd/-

Assistant Registrar (AS)

/ /2020

Sub Assistant Registrar(CS)

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To

The District Munsif,
Thanjavur.

+1 CC to Mr.G.KARNAN, Advocate (SR-88651[F] dated 23/09/2019)

+1 CC to Mr.A.ARUN PRASAD, Advocate (SR-88506[F] dated 23/09/2019)

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VB(24.01.2020) 3P 4C