

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2020

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

C.R.P(PD)No.1074 of 2020

Mrs.Prema

...Petitioner

Versus

- 1.Mr.K.Arauamuthan Achari
- 2.Vinayaka Achari
- 3.Gajendran
- 4.Tmt.Yasoda Ammal

...Respondents

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to direct the learned Subordinate Judge, Tambaram to dispose of the suit in O.S.No.286 of 2018 (formerly O.S.No.139 of 2007) within such a period as this Court may be please to fix.

For Petitioner : Mr.L.Pachaiyappan

ORDER

The relief sought for in the present Civil Revision Petition is to direct the learned Subordinate Judge, Tambaram to dispose of the suit O.S.No.286 of 2018 filed by the first respondent.

2. The brief facts of the case are as follows:

The first respondent herein had filed a suit O.S.No.139 of 2007 against the respondents 2 to 4 and the petitioner for the following reliefs:

- (i) For passing a preliminary decree for partition of plaintiff's 1/3rd share by dividing the suit property into 3 equal share and allot one such share to the plaintiff and to effect such division appoint an Advocate Commissioner to suggest a mode of division;
- (ii) directing the defendants to put the plaintiff into his allotted share;
- (iii) awarding cost of the suit.

3. After the numbering of said suit, the first respondent obtained *ex parte* decree illegally without the knowledge of the petitioner. When the petitioner came to know about the said *ex parte* decree, he approached the trial Court and took steps to set aside the said *ex parte* decree. The *ex parte* decree passed in O.S.No.139 of 2007 was also set aside and the said suit was renumbered as O.S.No.286 of 2018.

4. The petitioner and fourth respondent have filed their respective written statement in O.S.No.286 of 2018, wherein, they denied the averments made by the first respondent.

5. After the filing of written statement, the trial Court framed the issues and posted the matter for trial on 01.04.2019. The matter was adjourned from time to time, however, the first respondent/plaintiff did not come forward to contest the case. The first respondent/plaintiff is simply dragging on the proceedings. Hence, the petitioner has filed the present Civil Revision Petition before this Court for the relief stated *supra*.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. From a perusal of the materials available on record, it is seen that the matter has been periodically adjourned by the trial Court, however, the first respondent did not show any interest in prosecuting the case.

D.KRISHNAKUMAR, J.,

mrr

8. In view of the facts and circumstances of the case, this Court is inclined to allow the present Civil Revision Petition.

9. Accordingly, this Civil Revision Petition is allowed and the learned Subordinate Judge, Tambaram is directed to dispose of the suit O.S.No.286 of 2018 as expeditiously as possible within a period of one year from the date of receipt of a copy of this order. No costs.

11.03.2020

mrr

Index : Yes/No

To

The Subordinate Judge,
Tambaram.

सत्यमेव जयते

WEB COPY

C.R.P(PD)No.1074 of 2020