

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (NPD) No.2122 of 2018
& C.M.P.No.13009 of 2018

A.R.BASHEER AHMED (DIED)

1. B.A.KHIZER AHMED

2. B.A.YUNUS SALEEM

3. B.A.SULTAN AHMED

4. B.A.SHIRAZ AHMED

5. AISHA NAWAZ

6. NIZIA NAWAZ

7. RIZWANA NAWAZ

Petitioners 5 to 7 represented by their Power Agent

B,A,Khizer Ahmed

... Petitioners

Vs.

1. M/s. ALUKAS ENTERPRISES PVT LTD
REP BY ITS CHAIRMAN AND MANAGING DIRECTOR
A.V.JOSE S/o.A.J.VARGHESE
POOMA COMPLEX, 4TH FLOOR
M.G.ROAD, TISSUR, KERALA STATE
- 2 P.P.JOSE
- 3 KALIGA DEIV
- 4 KUBERA PANDIAN
- 5 SWAMINRAM
- 6 MANIVEL
LEELAVATHI (DIED)
- 7 SHANTHAKUMARI
- 8 KAUSALYA
- 9 RAJAMANI
- 10 JAYARAMAN
- 11 UMAMAHESWARI
- 12 RAJA PANDIAN
- 13 K.L.R.MEYAMMAL
- 14 MUTHAMMAL

15 K.THIRUVENKATASWAMY NAIDU

16 MEENAKSHIAMMAL

17 S.S.V.SOMASUNDARAM

18 MAQBOOLUNNUSA

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying against the petition and order dated 04.01.2018 made in I.A.No.134/2015 in I.A.No.682/1997 in O.S.No.633/1975 on the file of the Sub Court, Coimbatore.

For Petitioners : Mr. S.Mukunth
For M/s. Sarvabhauman Associates

For Respondents : Mr.V.Vijayshankar for RR1 & 2

RR 3 to 18 – No appearance

ORDER

This matter is taken up for hearing through Video-Conferencing.

The challenge in this Revision is to an order passed in IA No.134 of 2015 impleading the petitioners therein as parties to the final decree proceedings in a suit for partition.

2. The suit for partition was laid in OS No.633 of 1975 and the same came to be disposed of by the Trial Court on 10.01.1979. The said judgment and decree was confirmed in First Appeal by this Court on 14.02.1986. Thereafter, an application in IA No.682 of 1997 was filed by the first defendant seeking a final decree, since he died pending application, his legal representatives were brought on record. Pending those proceedings it appears that the respondents 1 and 2 in the Revision had purchased the shares of some of the parties to the suit. On the strength of their purchase they sought impleading themselves in the application for passing of final decree. The Trial Court allowed the said application.

3. I have heard Mr.S.Mukunth, learned counsel appearing for M/s.Sarvabhauman Associates, for the petitioners and Mr.V.Vijayshankar, learned counsel appearing for the respondents 1 and 2. The other respondents though served are not appearing either in person or through counsel duly instructed.

4. Considering the nature of the suit and the nature of the application, I do not think the Trial Court can be faulted for allowing the application. The purchase made by the respondents 1 and 2 is not denied. The partition suit which commenced in 1975 is still pending. The parties to the suit for partition cannot be made to wait for a final division of their shares in order to exercise their right of sale or otherwise for more than four decades. It is quite natural that the parties sell away their share to third parties and attempt to live in peace instead of fighting with their siblings. The purchaser though a *pendente lite* purchaser is entitled to certain rights. He can step into the shoes of the vendor and seek the share of the vendor.

5. In view of the above, I do not find any ground to interfere with the order of the Trial Court in impleading the respondents 1 and 2 as parties to the final decree proceedings. Hence the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

R.SUBRAMANIAN, J.

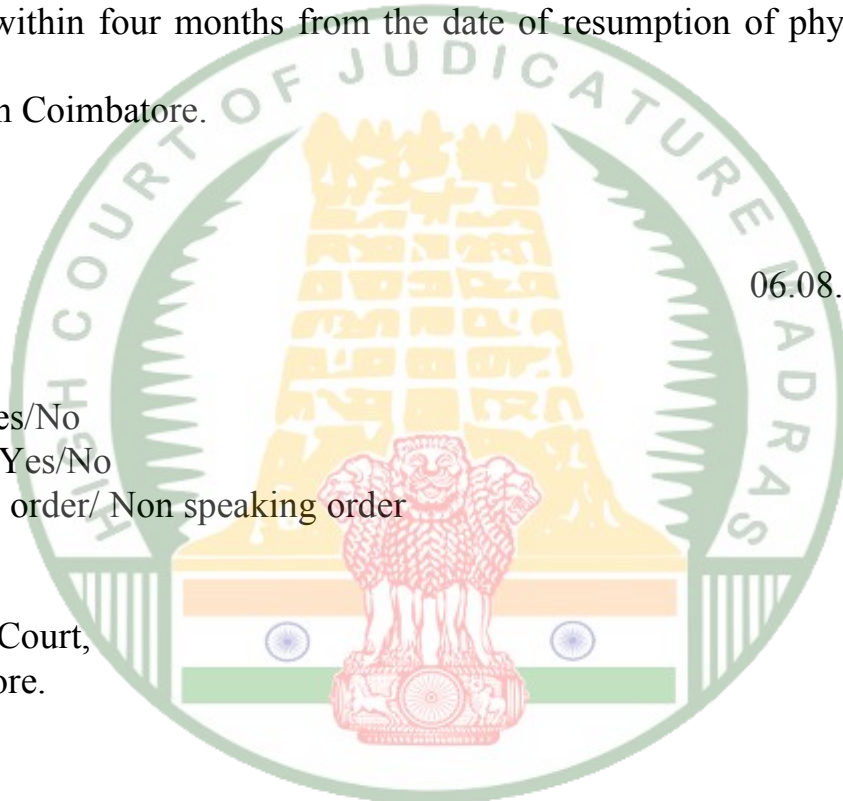
6. Considering the fact that the final decree proceedings themselves are of the year 1997, the Trial Court is directed to dispose of the final decree petition within four months from the date of resumption of physical Court hearing in Coimbatore.

06.08.2020

jv

Index: Yes/No
Internet: Yes/No
Speaking order/ Non speaking order

To
The Sub Court,
Coimbatore.



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