

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

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THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (PD) No.2399 of 2018
and C.M.P.No.14792 of 2018

Ramasamy
S/o.Kandasamy Gounder

... Petitioner

Vs.

Rajendran (deceased)
S/o.Late Kandasamy Gounder

1. Subramani
S/o.Late Kandasamy Gounder,
2. Dhivya
W/o.Late Rajendran
3. Minor Sugan
S/o.Late Rajendran
Rep. by his mother N.F.Dhivya

... Respondents

Prayer: Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 14.02.2018 made in I.A.No.961 of 2017 in O.S.No.52/2007 on the file of the learned Subordinate Judge, Attur and allow the Civil Revision Petition.

For Petitioner : Mrs.M.Senthil Vadivu

For Respondents : Mr.Avinash Wadhvani
for Mr.V.Raghavachari

ORDER

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

2. The defendant in OS.No.52 of 2007 has come out with this revision challenging the order made in I.A.No.961 of 2017, an application to issue summons to the Sub Registrar, Thalaivasal, to depose evidence before the Court with reference to the Registration of certain documents made by him.

3. The Suit is one for partition. The defence is that the entire property has been sold by the Deputy Registrar of Co-operative Societies, Attur in a public auction and the sale has also been confirmed. The sale deed was executed on 06.06.2011 and it was registered in the office of Sub Registrar, Thalaivasal. Thereafter, the defendant came up with the instant application in I.A.No.961 of 2017 seeking issuance of summons to the Sub Registrar, Thalaivasal, to give evidence regarding the registration of the documents

namely, the sale proceedings of the Deputy Registrar of Co-operative Societies. The said application was resisted on the ground that the evidence of the Sub Registrar is wholly unnecessary and the production of document of sale proceedings by the petitioner would suffice. A detailed counter was filed along with the certain documents. The learned Trial Judge, namely Subordinate Judge, Attur, on consideration of the pleadings, dismissed the said application, concluding that the evidence of the Sub Registrar is unnecessary.

4. I have heard Mrs.M.Senthil Vadivu, learned counsel appearing for petitioner and Mr.Avinash Wadhvani, learned counsel appearing for Mr.V.Raghavachari, for the respondents 1 to 3.

5. As the facts narrated above would demonstrate the very application for cross-examination of the Sub Registrar is wholly unnecessary. In a suit for partition, the defence projected is that the property has been sold by the Registrar of Co-operative Societies in exercise of the power under the Co-Operative Societies Act. It is also stated that the said documents have been registered by the Sub Registrar, Thalaivasal. The defendant can prove the sale by production of the sale deed. Therefore, the Trial Court is justified in

dismissing the application. I do not see any error or material irregularity in the order of the Trial Court in order to interfere in a revision filed under Article 227 of The Constitution of India.

6. Hence, the revision fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.11.2020

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Speaking order

To

1. The Subordinate Judge,
Attur.
2. The Section Officer,
V.R.Section,
High Court of Madras.



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R.SUBRAMANIAN, J.

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