

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 2554 of 2018

and

C.M.P.No. 15461 of 2018

1.Vairammal
2.Palanisamy
3.Murugesan
4.Shanthi

...Petitioners/Petitioners

Vs.

1.Logeswari
2.Parameswari
3.Gandhimathi
4.Kasthuriammal
5.Ramachandran
6.Jayasankar

....Respondents/Respondents
1 to 3 & 4 to 6

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order made in I.A.No. 1203 of 2016 in O.S.No. 195 of 2016 on the file of the learned Principal Sub-Ordinate Judge, Namakkal.

For Petitioners : Mr.T.Dhanyakumar

For Respondents : Mr.S.Sankar for R1 to R3
R4 to R6 - No Appearance

O R D E R

This revision is against an order dismissing the application for rejection of the plaint filed by the defendants on the contention that the suit properties were purchased by their grand mother and therefore, there is no question of there being any joint family and hence, the plaintiffs cannot seek partition.

2. The plaintiffs sought for partition contending that the suit properties were purchased under two sale deeds of the year 1948 by Thangaraju and Andi. Since they were minors, they were represented by their mothers namely, Karupayammal and Kannammal. The purchases were made in the name of minor Thangaraju, represented by his mother, Kannammal and minor Andi represented by his mother Karupayammal. It is also claimed that Andi and Thangaraju were in occupation of the property in common without

any partition. It is claimed that after the death of Thangaraju, the defendants 1 to 3 and the brother of the plaintiffs, Ramachandran along with Andi had effected partition 06.06.1994 without the knowledge of the plaintiffs. The plaintiffs, therefore, claim that the partition dated 06.06.1994 would not bind them and they would be entitled to a share as owners and heirs of Thangaraju.

3. A reading of the above pleadings would show that the application for rejection of the plaint has been filed on wrong understanding of the plaintiffs' claim. Once the plaintiffs claim that the purchases have been made by their father in the year 1948 and the defendants 1 to 3 have without the knowledge of the plaintiffs entered into a partition on 09.09.1994, the plaintiffs' claim to partition has to be examined with reference to the documents and evidence that is to be placed before the Court.

4. I do not think, there is any ground for rejection of the plaint filed under Order 7 Rule 11 of C.P.C. Therefore, this civil revision petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkn

To:

The Principal Sub-Ordinate Judge,
Namakkal.

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SR(CO)

RMP(03/12/2020)

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