



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD)Nos.1513, 1514 & 1515 of 2012

&MP(MD).No.1 of 2012

WEB COPY

1.E.Rathinambal

2.B.Malarselvi

3.M.Mallika

... Petitioners/Respondents/Plaintiffs
in all the CRPs

Vs.

M.Lakshmi Ammal

..Respondent/Petitioner/1st Defendant
in all the CRPs

COMMON PRAYER: The Civil Revision Petitions are filed under section 115 of CPC, against the fair and decreetal order dated 17.12.2011 made in I.A.Nos.278, 279 & 280 of 2011 in O.S.No.74 of 2010 on the file of Subordinate Judge, Kulithalai.

In all cases:

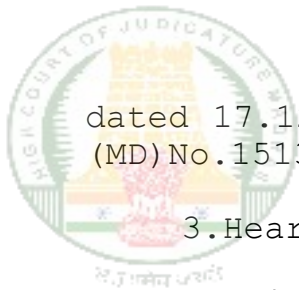
For Petitioners : Mr.P.Thiagarajan

For Respondent : Mr.G.Sridharan

COMMON ORDER

These three revision petitions are filed by the plaintiffs in a suit for partition, each of which arise out of certain interlocutory orders. The parties would be referred to by their rank before the trial Court.

2.The plaintiffs had filed the suit for partition of the suit property against their mother and brother. The suit was decreed exparte and a preliminary decree declaring the shares of the plaintiffs was passed on 22.12.2009. Thereafter, the first defendant had preferred I.A.No.92 of 2011 for setting aside the exparte preliminary decree and I.A.No.91 of 2011 for condoning the delay in filing it. On the appointed day, the defendant's counsel did not appear and consequently, I.A.No.91 & 91 of 2011 came to be dismissed. To restore it, the first defendant had filed I.A.No.279 & 280 of 2011. Both of which came to be allowed by the trial Court on 17.12.2011. Challenging them, the plaintiffs have preferred the present revision petitions in CRP(MD)Nos.1514 and 1515 of 2012. I.A.No.176 of 2010 was filed by the appellants/plaintiffs for passing a final decree. This petition was posted for pronouncing order on 14.09.2011. However, the respondent/defendant filed I.A.No.278 of 2011 to reopen the same for advancing certain further arguments. This too was allowed by the trial Court Vide its order



dated 17.12.2011. This order is challenged by the plaintiffs in CRP (MD)No.1513 of 2012.

3.Heard the learned counsel for the revision petitioners.

4.This Court perused the entire papers made available, and not at one point this Court could find that in his orders, which are now impugned, the trial Judge has used the procedure to prejudice the revision petitioners. It may have to be stated that procedural law provides certain elasticity to the Court for advancing the cause of justice. Exercise of this discretion, unless it interferes with or impacts the substantive right of the parties or borders on perversity, this Court may not interfere.

5.In conclusion, this Court does not find merit in these Civil Revision Petitions, and the only purpose these petitions served was to delay the proceedings before the trial Court by about 8 years.

6.These Civil Revision Petitions are dismissed and the fair and decreetal order dated 17.12.2011 made in I.A.Nos.278, 279 & 280 of 2011 in O.S.No.74 of 2010 on the file of Subordinate Judge, Kulithalai is hereby confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Subordinate Judge, Kulithalai

2.The Section Officer

V.R.Section, Madurai Bench of Madras High Court,
Madurai. (2C)

+1 CC to M/s.P. THIYAGARAJAN, Advocate (SR-17799[F] dated 23/09/2020)

+2 CC to M/s.G. SRIDHARAN, Advocate (SR-18029[F] dated 25/09/2020)

C.R.P. (PD) (MD) Nos.1513, 1514
& 1515 of 2012

&MP (MD) .No.1 of 2012

23.09.2020

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MR (CO)

KK(15.10.2020) 2P 7C

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