

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)No.67 of 2019

and

CMP.No.601 of 2019

[Through Video Conferencing]

R.Kanagaraj

... Petitioner / 2nd Defendant

Vs.

Lakshmi

... Respondent / Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 08.11.2018 made in I.A.No. 265 of 2018 in O.S.No.525 of 2014 on the file of the learned IV Additional District and Sessions Court, Coimbatore.

For Petitioner : Mr.N.Manokaran

For Respondent : No appearance

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ORDER

The 2nd defendant in O.S.No.525 of 2014 pending on the file of the IV Additional District and Sessions Court at Coimbatore is the revision petitioner herein.

2.O.S.No.525 of 2014 is the suit seeking for partition and separate possession and is now pending for nearly 7 years.

3.It had been filed by the daughter of the 1st defendant. The 2nd defendant/revision petitioner is her own brother /son of the 1st defendant. The 3rd and 4th defendants are her sisters/daughters of the 1st defendant.

4.Pending suit, the 1st defendant died in the year 2015. The plaintiff also died in the year 2015. Her legal representatives had been brought on record. After pleadings had been settled, the revision petitioner herein sought permission to file an additional written statement.

5.It had been contended and there had been talks for settlement which failed and thereafter various averments have been stated in the additional written statement.

6.In the order, now questioned in the revision petition dated 08.11.2018, the said request was rejected by the IV Additional District and Sessions Court at Coimbatore. The learned IV Additional District and Sessions Judge felt that the averments contained in the additional written statement tended towards

taking an inconsistent stand to what was taken earlier in the written statement. It was also noted by the learned Judge that it has been filed belatedly.

7.I would rather direct that the learned IV Additional District Judge takes up the entire suit itself for trial. The order under revision is not interfered with.

8.Let the parties go back to the trial Court on the basis of pleadings already on record. If the present revision petitioner/2nd defendant would like to point out any other facts he may put them in the form of cross examination of witness. When such questions are put during cross examination, they may be recorded provided they are relevant.

9.It has to be noted that in any suit the defendant can take any defence consistent with the earlier defence. At any rate, the burden is on the learned Judge to decide the issues on the basis of evidence recorded.

10.I am confident that necessary analysis would be done, and a considered judgment would be passed on conclusion of the trial. The parties should co-operate and ensure that the suit in O.S.No.525 of 2014 is disposed of on or before 31.01.2022.

C.V.KARTHIKEYAN, J.

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11.With the above direction, the Civil Revision Petition is disposed of.
Consequently, the connected miscellaneous petition also stands closed. No
order as to costs.

05.07.2021

Index:Yes/No
Internet:Yes/No
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To

1.The IV Additional District and Sessions Court, Coimbatore.



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