



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP No.2830 of 2021 and
CMP.No.20515 of 2021

Jamuna Rani (died)

2.P.Mohan

3.M.Harikesh

4.M.Jayapreethi ... Petitioners/Third Party

(Rep. by their father/power agent P.Mohan)

(Petitioners 2 to 4 brought on record as

LRs of the deceased P1 viz., Jamuna Rani

vide Court order dated 25.11.2021 made in

CMP.No.19263 of 2021 in CRP.SR.No.13512/2021)

Vs

1.L.Janakiraman

2.D.Vasanthi

3.D.Nathiya

4.D.Barath Kumar

5.B.Nirmala

6.B.Sateesh

...Respondents/Plaintiffs/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Judgment and Decree passed in O.S.No.1397 of 2019 dated 24.06.2019 on the file of the XVII Additional City Civil Judge, Chennai.

For Petitioners : Mr.S.Vijayaganesh

O R D E R

The petitioner challenges the decree in O.S.No.1397 of 2019 obtained by way of a joint compromise amongst the respondents herein. The petitioner is daughter of one Loganathan and Podhu Ammal. Claiming that the said property was settled on her mother by her father Kuppusamy Udayar and that she would be entitled to her share in the property on the death of her mother



on 06.01.2018, the plaintiff had filed a suit in O.S.No.6586 of 2019 seeking partition and separate possession of her 1/4th share in the suit properties. The said suit is resisted by the respondents herein, who are the defendants contending that there is a compromise decree in O.S.No.1397 of 2019 between the respondents, who are also the legal representatives of Podhu Ammal.

2.According to the petitioner, Podhu Ammal died leaving behind three sons and one daughter viz. the plaintiff in O.S.No.6586 of 2019 suppressing her existence the son Janakiraman and heirs of Dillibabu and Baskar, the other two sons who, according to the respondents, had pre-deceased their mother obtained a compromise decree and therefore, the said compromise decree is not valid and binding on her. On the above contentions, the petitioner seeks to have the compromise decree set aside invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. I do not think such an exercise is required at all. An instrument or a decree has to be set aside in the manner known to law, only if the plaintiff is prevented from exercising her rights or obtaining her rights without having the instrument set aside. A person, who is not a party to a decree or an instrument can very well ignore the instrument or a decree and proceed to establish his or her right by way of a suit. Such a decree or instrument cannot be projected against him or her, in such a suit filed by him or her seeking to establish his or her title. As could be seen from the copy of the decree in O.S.No.1397 of 2019, the plaintiff is not a party to the suit. Moreover, the said suit is restricted to only one item of property situate at Otteri, Chennai.

3.As already pointed out, it is wholly unnecessary for the plaintiff to have the decree set aside. Hence, this revision is wholly unnecessary and the same is dismissed, leaving it open to the legalheirs of the plaintiff to contend that the suit decree in O.S.No.1397 of 2019 is not binding on them in so far as the share of the plaintiff in the suit property. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vs



To:

1.The XVII Additional City Civil Judge,
Chennai.

2.The Section Officer,
VR Section,
Madras High Court, Chennai.

CRP No.2830 of 2021 and
CMP.No.20515 of 2021

NMI (CO)
PR (20/01/2022)