

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.3670 of 2015

and

MP.No.1 of 2015

1. G.Ganapathi
2. P.Palaniammal
3. M.Kandasamy
4. M.Govindaraju
5. Chinnaraju

... Petitioners

Vs.

Rajkumar

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 11.03.2015 made in I.A.No.697 of 2014 in I.A.No.372 of 2009 in O.S.No.55 of 2004 on the file of the Sub Court, Sankari by allowing this Civil Revision Petition.

For Petitioners : Mr.N.Manokaran

For Respondent : Notice Served (No Appearance)

ORDER

This Civil Revision Petition is directed as against the order and decretal order passed in I.A.No.697 of 2014 in I.A.No.372 of 2009 in O.S.No.55 of 2004 dated 11.03.2015 on the file of the learned Sub Judge, Sankari, thereby, dismissing the petition to set aside the ex-parte decree order passed in the final decree application.

2. The petitioners are the defendants 8 to 12 in the suit filed by the respondent for partition. The suit was decreed by the judgment and decree dated 01.08.2005. Aggrieved by the same, the petitioners preferred an Appeal Suit and went upto the Hon'ble Supreme Court of India and the preliminary decree passed by the trial Court was confirmed. Thereafter, the respondent filed a final decree application in I.A.No.372 of 2009. After receipt of the notice in the final decree application, the petitioners failed to appear before the trial Court. Therefore, they were set ex-parte on 17.11.2009.

3. Though notice was served on the respondent and the name is also printed in the cause list, no one appeared on behalf of the respondent. Heard

the learned counsel for the petitioners.

4. On a perusal of the affidavit filed in support of the petition to set aside the ex-parte decree, it reveals that their vendors assured them that they will take care of the matter and as such, they did not engage any separate counsel in the final decree application. Therefore, they may be given one more opportunity to participate in the final decree application. It seems that now the Advocate Commissioner was also appointed and yet to divide the property.

5. Considering the above, this Civil Revision Petition is allowed and the order passed in I.A.No.697 of 2014 in I.A.No.372 of 2009 in O.S.No.55 of 2004 11.03.2015 is set aside. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

24.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

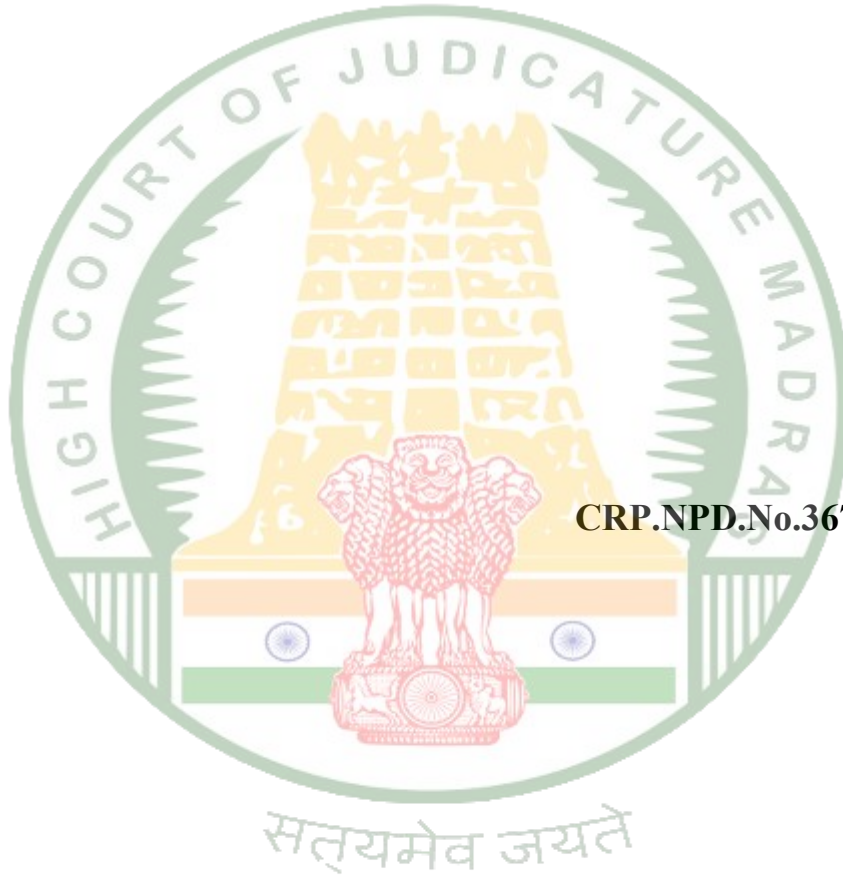
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G.K.ILANTHIRAIYAN,J.

Kv

To

The Sub Judge, Sankari.



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