

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).Nos.4476 and 4477 of 2015
and M.P.No.1 of 2015 (2 Nos)

Kalimuthu

...Petitioner in
both the C.R.P's.

Vs

Thillaisekaran

...Respondent in
C.R.P.No.4476 of 2015

Thillaivalavan

...Respondent in
C.R.P.No.4477 of 2015

Prayer in C.R.P.No.4476 of 2015: Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decretal order dated 12.09.2014 made in I.A.No.409 of 2013 in O.S.No.66 of 2009 passed by the Additional District Munsif, Chidambaram.

Prayer in C.R.P.No.4477 of 2015: Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decretal order dated 12.09.2014 made in I.A.No.557 of 2013 in O.S.No.64 of 2009 passed by the Additional District Munsif, Chidambaram.

In both the C.R.P's.:

For Petitioner : Mr.V.Meenakshi Sundaram

For Respondent
in C.R.P.No.4476 of 2015 : Mr.R.Meenal

COMMON ORDER

The Present Civil Revision Petitions have been filed,

(i)as against the fair and decretal order dated 12.09.2014 made in I.A.No.409 of 2013 in O.S.No.66 of 2009 passed by the Additional District Munsif, Chidambaram.

(ii)as against the fair and decretal order dated 12.09.2014 made in I.A.No.557 of 2013 in O.S.No.64 of 2009 passed by the Additional District Munsif, Chidambaram.

2.The petitioner in both the C.R.P., is the defendant and the respondents in both the C.R.P are the plaintiff. The respondent in both the Civil Revision Petitions filed a separate suit in O.S.Nos.64 of 2009 and 66 of 2009, on the file of the Additional District Munsif, Chidambaram, for declaration and injunction in respect of the suit property.

3.While pending the suit, the petitioner filed a petition to strike off the plaint, only on the ground that the respondents already filed a suit for

partition in O.S.No.230 of 2008, to include the present suit properties. While pending the said suit for partition, the respondents again filed a suit for declaration, in respect of the properties, which were not included for partition. Under Order 2 Rule 2, the respondents have to seek remedy in the partition suit itself. Therefore, without obtaining any prior permission, under Order 2 Rule 2 of CPC, they again filed the present suit. In fact, in the partition suit, the petitioner filed a petition to include the present suit properties for partition. The same was dismissed and aggrieved by the same, he preferred this Civil Revision Petition in C.R.P.No.4443 of 2015 and the same was also dismissed by this Court. The present suits were filed on 23.04.2009. The petitioner also filed written statement in the year 2009, i.e., after a period of four years. Now, the petitioner come forward with the petition to strike off the plaint, on the above said grounds.

4. On perusal of the written statement, the petitioner did not even whisper about the same and after 4 years, the present petition is filed only to drag the proceedings. In fact P.W.1 was examined and posted the matter for cross examination of P.W.1. At that juncture, the present petition has been filed. Therefore, the Court below rightly dismissed both the petitions and

this Court finds no infirmity or irregularity in the order dated 12.09.2014 made in I.A.No.409 of 2013 in O.S.No.66 of 2009 passed by the Additional District Munsif, Chidambaram.

5.Hence, both the Civil Revision Petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

11.02.2021

Index:Yes/No
Speaking Order: Yes/No
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To
The Additional District Munsif, Chidambaram.



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G.K.ILANTHIRAIYAN.J,

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