

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.4772 of 2015
and M.P.No.1 of 2015

Dharmaraj

...Petitioner

Vs

1.D.Shanthi

2.Ponraj

3.Saraswathi

4.Kalamani

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Indian Constitution of India to set aside the orders of the II Additional District Munsif of Coimbatore, dated 09.07.2015 in I.A.No.223 of 2015 in I.A.No.64 of 2014 in O.S.No.1765 of 2006.

For Petitioner : Mr.J.Hariharan

For Mr.V.Nicholas

For Respondents : For R1-Not ready notice

For R2 to R4 - Notice served

ORDER

The Civil Revision Petition is directed as against the fair and decretal order dated 09.07.2015 in I.A.No.223 of 2015 in I.A.No.64 of 2014 in O.S.No.1765 of 2006 on the file of the II Additional District Munsif

of Coimbatore, thereby dismissing the petition, filed by the petitioner herein to implead the petitioner in the final decree application.

2.The petitioner is the grand son of the plaintiff. The suit was filed by the plaintiff in O.S.No.1765 of 2006 for partition and claiming 1/5th share in respect of the suit schedule property. According to the plaintiff, the suit property was derived by her husband through the Will dated 24.08.1994. The preliminary decree was passed on 15.09.2009. Thereafter the petitioner filed a petition to implead himself as a party in the final decree proceedings, thereby claiming that he is the grand son of the plaintiff and further the plaintiff executed Will dated 13.11.2011 in favour of the petitioner herein. Thereafter he came to understand that the decree was obtained on fraud and as such he challenged the Judgment and decree passed in O.S.No.1765 of 2006 and for declaration that the Will dated 13.11.2011 executed by the plaintiff in favour of the petitioner is valid, in the suit in O.S.No.825 of 2014, and it is pending on the file of the Principal District Munsif, Coimbatore. The petitioner failed to obtain any interim order of stay, to stay all further proceedings of the final decree in I.A.No.64

of 2014 in O.S.No.1765 of 2006. At that juncture petitioner filed a petition to implead himself as a party in the final decree proceedings in I.A.No.223 of 2015.

3.Admittedly, the sale was executed by the plaintiff, in favour of the petitioner herein vide Will dated 13.11.2011. When the petitioner challenged preliminary decree by way of separate suit in O.S.No.825 of 2014 and it is pending for trial on the file of the Principal District Munsif, Coimbatore, no purpose would be served by impleading him as a party in the final decree proceedings. That apart the petitioner is none other than the grand son of the plaintiff in O.S.No.1765 of 2006. She only filed the suit for partition against her own daughter and son. According to the petitioner, the Will dated 13.11.2011 was executed in his favour. On the strength of the said Will, now the petitioner challenged the preliminary decree by way of separate suit. Therefore, this Court finds no irregularity or infirmity in the order of the Court below.

4.Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently connected miscellaneous petition is closed.

20.01.2021

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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To

1.The Principal District Munsif, Coimbatore.

2.The II Additional District Munsif, Coimbatore.

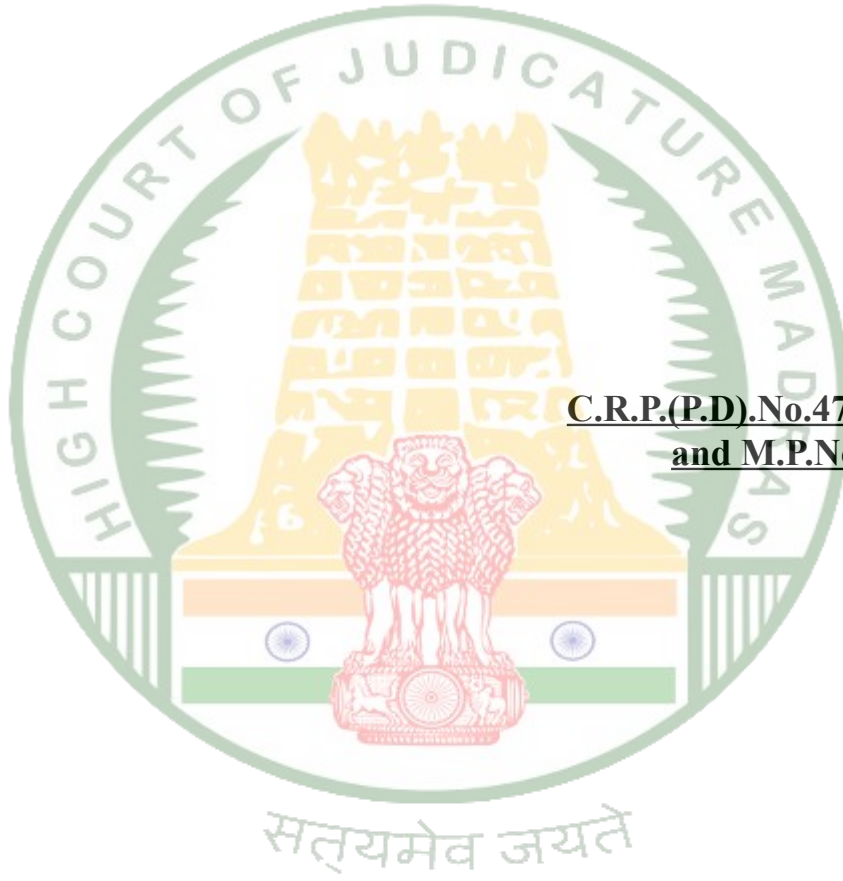


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