

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

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

CRP.NPD.No.2137 of 2018

and

CMP.No.13238 of 2018

1. Mrs.Vasanthi
W/o. Murugavel

2. Mrs. Jeyanthi
W/o. Velliyangiri

...Petitioners

Vs.

1. Mr. Mageshkumar
Manager,
M/S. KICM (Madras Limited)
Mushroom Farm
B-Block, Katteri Road,
Needil Industries Post,
Nilagiri District.

2. Mr.Rajendran
S/o. Krishnasamy Gounder

...Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC to set aside the fair and final order passed in E.A.No.137 of 2015 in E.P.No.4 of 2011 in O.S.No.225 of 1999 on the file of Sub-Court, Udumalpet, dated 09.03.2018.

For Petitioners : Mr.Gopalakrishnan
For Selvam

For R1 : M/s.J.Prithivi

For R2 : Notice Served
No appearance

ORDER

This Civil Revision Petition is filed to set aside the fair and final order dated 09.03.2018 passed in E.A.No.137 of 2015 in E.P.No.4 of 2011 in O.S.No.225 of 1999 on the file of Sub-Court, Udumalpet.

2. The petitioners are the daughters of the second respondent herein. The second respondent had borrowed loan from the first respondent by executing pro note. Thereafter, the first respondent filed a suit for recovery of the same on the strength of the pronote and the same was decreed for a sum of Rs.4,17,481.50/- with interest @ Rs.6% per annum. In pursuance to the said decree, the first respondent filed an execution petition in E.P.No.4 of 2011. While pending Execution Petition, the petitioners filed a petition seeking their 2/3 share in the suit property which was already attached in pursuant to the decree for recovery of money.

3. The contention of the petitioners is that the property

which has been attached is an ancestral property and as such, the loan borrowed by the second respondent would not bind upon the petitioners and in respect of their shares over the property. They are having 2/3 share in the suit property and the second respondent is having only 1/3 share in the property. Therefore, the first respondent can bring only 1/3 share of the property for auction to realise the decree amount.

4. According to the petitioners, the suit property was derived by the second respondent by way of partition deed dated 28.10.2002 between the second respondent and his mother, whereas the recital of the partition deed reveals that the suit property acquired by the second respondent from his father and thereafter, a partition deed was executed on 28.10.2002 in which, the "B" schedule property was allotted to the second respondent. After the demise of his father i.e. Krishnasamy Gounder, the property belongs to him was also partitioned and allotted in favour of the second respondent. Therefore, the entire properties were acquired by the second respondent and the petitioners cannot claim any right over the property. This Court is of the opinion that the Court below has rightly dismissed the petition and

G.K.ILANTHIRAIYAN,J.

Ksa-2

as such, this Court finds no infirmity or illegality in the order passed by the trial Court.

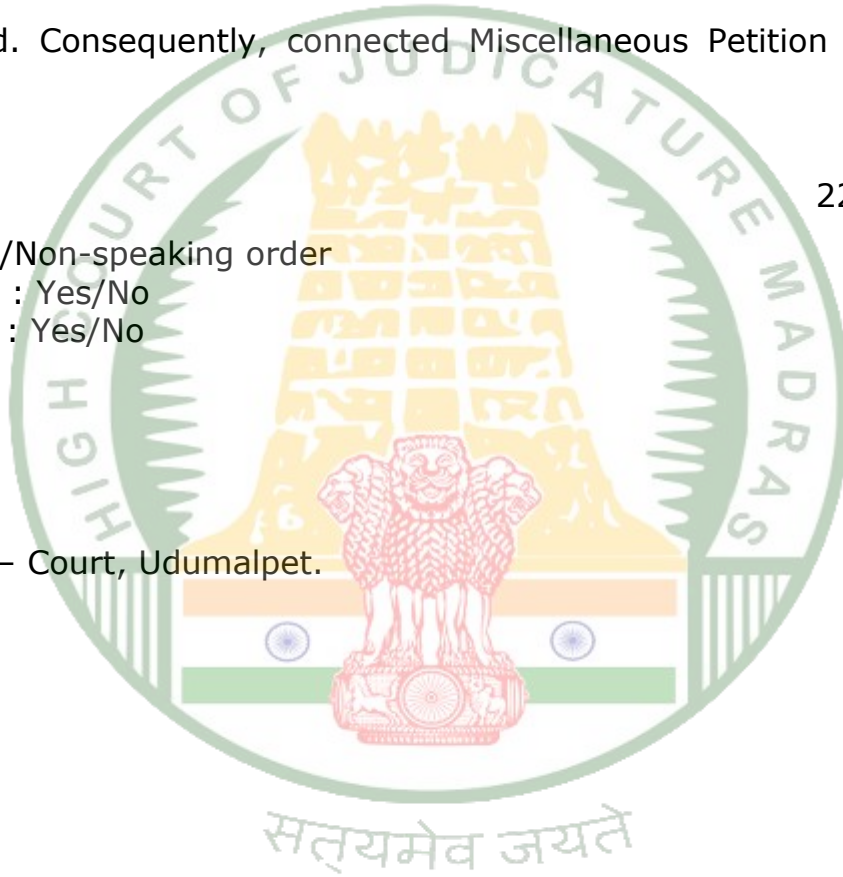
5. Accordingly the present Civil Revision Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.
No costs.

22.06.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
ksa-2

To

The Sub – Court, Udumalpet.



WEB COPY

CRP.NPD.No.2137 of 2018