

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.04.2021
CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRP.No.3512 of 2016
and
CMP No.17849 of 2016

1.T.Nattu Durai
S/o.Thirumalaisamy Gounder

2. P.Kuppuraj
S/o.V.K.Palani Gounder ..Petitioners/Petitioners/Defendants
Vs.

1.V.Radhakrishnan
S/o.V.K.Velusamy

2.Minor.Indukala
D/o.V.K.Velusamy
Rep. By her next friend brother
V.Radhakrishnan ... Respondents/Respondents/Plaintiffs

3.V.K.Velusamy
S/o.Kaliappa Gounder ...Respondent/Respondent/1st Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Indian Constitution to set aside the fair and decreetal order 31.08.2016 in I.A.No.23/2016 in O.S.No.188 of 2015 on the file of IV Additional District Judge at Coimbatore.

For Petitioners : Mr.K.Myilsamy
For Respondents-1&2 : Mr.Sivaraman
For Respondent-3 : NA

सतयमेव जयते
O R D E R

(This case has been heard through video conference)

When the matter is taken up today, the learned Counsel for the petitioners would submit that the respondents 1 and 2 had filed O.S.No.188 of 2015 on the file of the IV Additional District Judge at Coimbatore against one V.K.Velusamy, the father of the respondents 1 and 2 seeking for declaration to declare the sale deed executed by their father in favour of the 1st petitioner as null and void and also to declare the sale deed executed by the 1st petitioner in favour of the 2nd petitioner as null and void and for a partition of the suit property into 3 equal shares by metes and bounds. While so, the petitioners filed a petition under Order 7 Rule 11 C.P.C. to reject the

plaint in O.S.No.188 of 2015. However, the learned trial Judge by order dated 31.08.2016 had dismissed the petition to reject the plaint. Against which, the present Civil Revision Petition has been filed. He would further submit that pending Civil Revision Petition, the suit filed by the respondents/plaintiffs had been dismissed for default on 10.08.2018. Thereby, as on date nothing survives for adjudication.

2. At this juncture, the learned Counsel for the respondents 1 and 2 would submit that even prior to the dismissal of the suit for default, the petitioners/defendants had been set ex-parte as early as on 22.03.2017. He would submit that he was not aware whether any petition to restore the suit has been filed before the trial Court or not.

3. The learned Counsel appearing for the petitioners would submit that in the event of the suit being restored, liberty may be given to the petitioners to move a fresh Civil Revision Petition for the same relief.

4. In view of the above submissions that the suit filed by the respondents 1 and 2/plaintiffs has been dismissed for default on 10.08.2018 and that as on date nothing survives for adjudication, this Civil Revision Petition stands dismissed as infructuous. Consecutively, connected Miscellaneous petition is closed. However, in the event of the suit being restored, liberty is given to the petitioners to file a fresh Civil Revision Petition. No costs.

Sd/-
Assistant Registrar (CS.VIII)

/True Copy/

Sub Assistant Registrar

To

The IV Additional District Judge,
Coimbatore.

+1cc to Mr.K.Myilsamy, Advocate SR.NO..22105

AKM/30.04.21/2P-3C/

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