

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM

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

CRP.PD.No.3745 of 2016

and

CMP.No.19060 of 2016

T.N.Durairaj

... Petitioner

Vs.

1. S.Narayanasamy Chettiyar

2. R.Karthikeyan

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 18.03.2016 passed in I.A.No.703 of 2013 in O.S.No.243 of 2007 passed by the Principal Subordinate Judge at Tiruppur and dismiss the same.

For Petitioner

: Mr.S.Arun Prakash for
Mr.A.V.Raja

For Respondents

: Mr.V.G.Suresh Kumar

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.703 of 2013 in O.S.No.243 of 2007 dated 18.03.2016 on the file of the learned Principal Subordinate Judge,

Tiruppur, thereby, allowing the petition to permit the respondents to file additional written statement in the suit.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed the said suit for partition, declaration and injunction. The case of the petitioner is that the property purchased in the name of the first respondent herein is his father. While purchasing the said property, he also contributed his contribution and as such, the first respondent should not have executed any settlement deed in favour of the second respondent herein. Therefore, he sought for declaration to declare that the settlement deed executed by the first defendant in favour of the second defendant is null and void and is also seeking partition of half share in the suit schedule property. The respondents filed a written statement and thereafter, the matter was posted for trial. During the trial, the petitioner examined his witnesses and closed the plaintiff's side evidence. Thereafter, the first defendant was examined as D.W.1 and when the matter was posted for D.W.2's evidence, the respondents filed a petition seeking permission to file an additional written statement. The respondents raised the ground that the petitioner claims ownership over the suit schedule property by saying

that he purchased it in the name of his father viz., the first respondent herein. If the petition contents are found to be true, as per Section 4 of the Benami Transactions (Prohibition) Act, no suit for action can be filed to enforce any right in respect of any property held Benami or against any person in whose name in the property held or against any persons relied.

3. Considering the above, the Court below allowed the same and permitted the respondents to file their additional written statement. In view of the above discussion, this Court finds no infirmity or irregularity in the order passed by the Court below. Accordingly, this Civil Revision Petition is dismissed. However, since the suit is of the year 2007, the trial Court is directed to complete the trial and dispose of the suit within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

25.02.2021

Speaking/Non-speaking order
Index : Yes/No
kv

G.K.ILANTHIRAIYAN,J.

Kv

To

The Principal Subordinate Judge at Tiruppur.



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