

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.4125 of 2014

1.S.Vijayakumar
2.Vijayalakshmi ...Petitioners

Vs

Sriraman(died)
1.Tamil Selvi
2.Sugumar
3.Devanathan
4.Subitha
5.Pazhani
6.Dhanalakshmi ...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decretal order dated 21.02.2013 passed in E.A.No.8 of 2011 in E.P.No.25 of 2010 in O.S.No.146 of 2006 on the file of the learned I Additional District Court, Cuddalore.

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For Petitioners : Mr.D.Baskar

For Respondents : Mr.D.S.Thirumavalavan for R5
No appearance for R2 - R4 and R6
R1 not ready in notice

ORDER

The present Civil Revision Petition is directed as against the order dated 21.02.2013 passed in E.A.No.8 of 2011 in E.P.No.25 of 2010 in O.S.No.146 of 2006 on the file of the learned I Additional District Court, Cuddalore, thereby dismissed the petition filed by the petitioners under Section 47 of CPC.

2.The 1st respondent herein filed the suit for specific performance in respect of the suit property in O.S.No.146 of 2006, thereafter, the 1st respondent filed execution petition in E.P.No.25 of 2010 for execution of sale deed in respect of the suit property. While pending the execution petition the petitioners herein filed a petition under Section 47 of CPC claiming 2/6th share in the suit property.

3.According to the petitioners, they are the third parties in the suit filed by the respondents. The deceased - Sriraman had two wives, viz., Panchaiammal and Dhanalakshmi. The petitioners were born through the 1st wife-Panchaiammal. They filed the suit for partition in O.S.No.6 of 2006 on the file of the Fast Track Court, Cuddalore. The said suit was dismissed

and aggrieved by the same, they filed an Appeal Suit before this Court in A.S.No.605 of 2011. The same was also dismissed. At that juncture, the petitioners filed the execution petition under Section 47 of CPC, claiming 2/6th share in the suit property.

4. Admittedly, the suit property belong to their father, viz., one Sriraman. While being so, he entered into an agreement for sale in respect of the suit property with the 1st respondent herein. It was decreed. Further it is revealed that the legal heirs of the deceased defendant-Sriraman also filed an Appeal Suit as against the Judgment and decree dated 18.01.2010 in O.S.No.146 of 2008 and no interim order was obtained. Therefore without any share allotted to the petitioners, they have no claim even till today. Therefore, the execution Court rightly dismissed the petition filed by the petitioners under Section 47 of CPC. Further, this Court finds no infirmity or irregularity in the order passed by the I Additional District Court, Cuddalore, in E.A.No.8 of 2011 in E.P.No.25 of 2010 in O.S.No.146 of 2006 dated 21.02.2013. However, if any interim order passed by this Court in the Appeal Suit in A.S.No. 605 of 2011, filed by the petitioners as well as the legal heirs of the deceased defendant-Sriraman, the execution Court may

consider the same and keep the matter in abeyance till the disposal of the Appeal Suit.

5.With the above direction, the Civil Revision Petition is dismissed. No costs.

27.01.2021

Index:Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The I Additional District Court, Cuddalore.

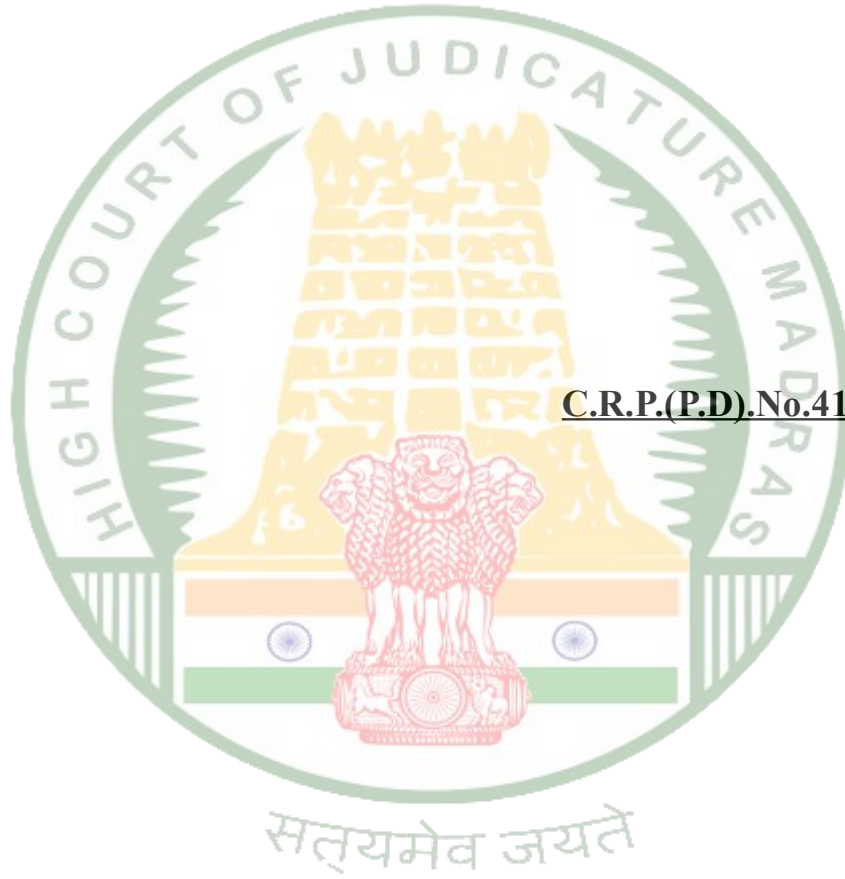


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