



C.R.P(PD).No.2615 of 2021
and CMP.No.19428 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD).No.2615 of 2021

and

CMP.No.19428 of 2021

Jayanthi

..Petitioner

Vs.

1.Venugopal

2.Rajasekar

..Respondents

Praye: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 07.10.2021 made in unfiled I.A.No... / 2021 in OS.No.184 of 2015 on the file of the III-Additional District Court, Salem.

For Petitioner : Mr.N.Manoharan

ORDER

Challenge in this revision is to the order of the Trial Court rejecting an application filed by the petitioner herein, who is the plaintiff in the suit seeking to summon certain documents under Rule 74 of the Civil Rules of Practice r/w. Section 151 of C.P.C.



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2.The suit in OS.No.184 of 2015 was filed by the plaintiff seeking a preliminary decree for partition of her 1/3rd share, declaration that the partition deed entered between the defendants, which is registered as Document No.1684 / 2015 is invalid and for other reliefs. According to the plaintiff, the suit properties are ancestral properties and the plaintiff as a daughter is a coparcener, entitled to share.

3.The suit is being resisted by the defendants contending that the suit properties are self-acquired properties of the 1st defendant and the plaintiff has no right to claim share during the life time of the 1st defendant. It is also claimed that the registered document of partition has been entered into even in the year 2015. Entire evidence was recorded and the evidence was closed. When the suit was posted for arguments, the plaintiff had filed IA.Nos.2 & 3 of 2019 seeking to re-open the case and re-call P.W.1 for the purpose of marking certain documents namely, the certified copy of plaint in OS.No.117 of 2014, written statement, Sammatha Muchalika and the award passed by Lok Adalat in the said suit. The said applications were dismissed by the Trial Court on 21.08.2019.



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4.Challenging the said order dated 21.08.2019, two revisions were filed by the plaintiff in CRP(PD).Nos.497 & 498 of 2021. The said civil revision petitions came to be dismissed on 10.03.2021. It is thereafter, the plaintiff had embarked upon the novel idea of summoning the very same documents to be marked as Court documents and hence, the instant application. The learned Additional District Judge rejected the application on the ground that it is not open to the plaintiff to seek summoning of documents, when her request for re-opening the evidence and re-examining PW1 for the purpose of marking very same documents has been rejected.

5.Heard Mr.N.Manoharan, learned counsel appearing for the petitioner.

6.Mr.N.Manoharan, learned counsel appearing for the petitioner would vehemently contend that these documents would show that the father of the plaintiff has admitted the character of the property in the earlier proceedings and therefore, he cannot now turn around and say that the properties were self-acquired. It is always well open to the plaintiff to have marked these documents earlier in point of time. Having not produced the



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documents earlier in point of time and having failed in her attempt to have the case re-opened for the purpose of production of these documents, I do not think, the plaintiff can by-pass the earlier order and seek to send for the documents to be marked as Court documents. These documents are only plaint, written statement and the decree passed before the Lok Adalat on the basis of the compromise between the parties. These are untested pleadings. Necessarily, some evidence would be required to prove their contents. I am therefore, of the considered opinion that those documents cannot be marked as Court documents.

7.Hence, I do not see any error in the order of the Trial court in rejecting the application. This civil revision petition fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2021

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To:-

The III-Additional district Court,
Salem.



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R.SUBRAMANIAN, J.

KKN

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