

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

**C.R.P.(PD) No.132 of 2017
and C.M.P.No.619 of 2017**

Sarathamani

... Petitioner

Vs.

1.Karuppusamy
2.K.Eswaramoorthy
3.T.Chandrasekaran
4.Kandasamy
5.Thangamuthu
6.Chellappan
7.Palaniammal
8.Jayalakshmi
9.P.Eswaran
10.Saroja
11.P.K.Karthick Kumar
12.K.G.Gopalakrishnan
13.C.P.Sengottaiya

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order and decretal order dated 25.11.2016 made in I.A.No.212 of 2016 in O.S.No.164 of 2014 on the file of the I Additional District Court, Erode by allowing this Civil Revision Petition.

For Petitioner	:	Mr.N.Manokaran
For R1, R11 & R12	:	Mr.S.Kaithamalai Kumaran
For R2 to R10 & R13	:	Notice served

ORDER

This Civil Revision Petition has been filed to set aside the order and decretal order dated 25.11.2016 made in I.A.No.212 of 2016 in O.S.No.164 of 2014 on the file of the I Additional District Court, Erode, thereby dismissing the petition seeking permission to amend the prayer by deleting the one of the time in the suit schedule property.

2. The petitioner is the plaintiff and the respondents are defendants in the suit filed for partition. Pending suit, the petitioner impleaded the respondents 11 to 13 as defendants in the suit and the 11th and 12th respondents created the partition deed dated 14.08.2014 and executed the sale deed in one of the suit schedule mentioned property in favour of the 13th respondent herein dated 09.09.2014. Thereafter, the petitioner received the share from the 13th respondent and executed a release deed and also consent in favour of the 13th respondent dated 08.03.2016 and therefore she sought for amendment to delete the particular item which was produced by the 13th defendant from the plaint schedule.

3. It is seen that the petitioner filed a suit for declaration

declaring that the release deed executed by her in favour of the respondent herein dated 08.03.2016 registered by document Nos. 4224/2014 and 4225/2015 is null and void and sought for partition in the suit schedule property claiming 1/6th share. The release deed executed by the petitioner includes the item which is sought to be deleted from the plaint. Therefore, without declaring the release deed executed by the petitioner is null and void, she could not executed any release deed or consent deed in favour of the 13th respondent insofar as her share. Therefore, the Court below rightly dismissed the petition.

4. In view of the above discussion, this Court finds no illegality or infirmity in the order passed by the trial Court. Accordingly, the Civil Revision Petition stands Dismissed. No costs. Consequently connected miscellaneous petition is closed.

05.03.2021

lpp
Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

G.K.ILANTHIRAIYAN.J,

lpp

To

The I Additional District Judge,
Erode.



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