

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

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

C.R.P.(PD) No.2541 of 2017
and M.P.No.12069 of 2017

A.Premkumar Petitioner

Vs.

M.Govindasamy ... Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.03.2017 made in I.A.No.32 of 2013 in O.S.No.37 of 2009 on the file of the learned District Munsif, Tiruppur.

For Petitioner : Mr.N.Ramesh

For Respondent : Mr.S.Kington Jerold

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 02.03.2017 passed by the learned District Munsif, Tiruppur, made in I.A.No.32 of 2013 in O.S.No.37 of 2009, thereby dismissing the petition filed by the petitioner to reject the plaint.

2. The petitioner is the defendant in the suit filed by the respondent for permanent injunction in respect of the suit B schedule property. According to the petitioner, the suit property is an undivided property and it was purchased by the respondent from the co-sharer viz., the petitioner's brother. The specific allegation of the respondent is that the petitioner colluded with his brother and attempted to create documents and file civil suit behind his back to defeat the respondent's right in respect of the B schedule property.

3. At this juncture, the petitioner filed this petition for rejection of plaint on the ground that the suit for bare injunction is not maintainable as against the co-sharer. The petitioner also filed suit in O.S.No.348 of 2006 before the District Munsif Court, Tiruppur, for partition as against his brother and it was decree. The property is not divided by metes and bounds. According to the respondent, the share allotted to one of the co-sharer viz., the petitioner's brother was purchased by him by the registered sale deed dated 12.12.2007 and he become an absolute owner of the suit B schedule property.

4. It is further stated that the petitioner attempted to trespass and forcibly dispossess the respondent from the B schedule property. Therefore, there are triable issues in this case and it has to be decided during the trial on the basis of the oral and documentary evidence. Therefore, the trial Court rightly dismissed the petition and this Court finds no illegality or infirmity in the order passed by the Court below. However, considering the fact that the suit is of the year 2009, the trial Court viz., the District Munsif Court, Tiruppur, is directed to complete the trial proceeding within a period of six months from the date of the receipt of a copy of this Order.

5. With the above directions, the Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

11.02.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

G.K.ILANTHIRAIYAN, J.

rts

To

1. The District Munsif Court,
Tiruppur.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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