



C.R.P.No.4420 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2022

CORAM

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

C.R.P.No.4420 of 2015
and M.P.No.1 of 2015

1. S.K.Palanisamy
2. S.K.Lakshmanan
3. P.Ruthramurthy
4. A.S.Kandasamy

.. Petitioners

Vs.

1. K.Pankajam
2. Karuppusamy
3. Viswanathan
4. Chennimalai Gounder
5. Duraisamy
6. Arumugam
7. Velusamy

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 27.08.2015 made in I.A.No.613 of 2014 in O.S.No.76 of 2011 on the file of I Additional District Court, Erode and allow the Civil Revision Petition.

For Petitioners : Mr.P.Valliappan

For R1 : Notice served
No appearance



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For R2 to R4,
R6 and R7 : Given up
For R5 : Mr.K.S.Jeyaganesan

ORDER

This Civil Revision Petition has been filed as against the fair and final order passed in I.A.No.613 of 2014 in O.S.No.76 of 2011 dated 27.08.2015, on the file of I Additional District Court, Erode, thereby allowing the petition filed by the first respondent herein to strike out the written statement filed by the petitioners herein.

2. The petitioners were impleaded as defendants 7 to 10 in the suit filed by the first respondent herein for partition, on the ground that the petitioners herein are subsequent purchasers of one of the items of the partition suit properties. When the petitioners herein filed an application to implead themselves as defendants in the suit, the first respondent herein filed a counter stating that one T.M.Subramaniam had already filed a suit in O.S.No.74 of 2003 as against the petitioners for specific performance and for other reliefs. The agreement for sale was executed with regard to some of the properties involved in the said suit for partition. The said suit was disposed of directing the defendants to pay



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the advance amount. Subsequently, the suit was concluded holding that the plaintiffs of the suit were not entitled for the relief of specific performance. It also decided that the sale in favour of some of the defendants was not valid. Therefore, the petitioners herein did not have any right over the property. They are not co-sharers as stated in the petition to implead themselves as defendants. However, the contentions were rejected and the implead petition was allowed and the petitioners herein were impleaded as defendants 7 to 10 in the partition suit filed by the first respondent herein.

3. In fact, thereafter the first respondent filed a petition to amend the plaint and the same was allowed. Again, the first respondent herein filed an application to strike out the written statement filed by the petitioners herein on the very same ground. However, the Trial Court allowed their application and struck off the written statement filed by the petitioners herein. That apart, after filing of written statement by the petitioners herein, the first respondent herein had filed an Interlocutory Application in I.A.No.854 of 2013 for filing reply statement to the written statement filed by the petitioners herein and the same was allowed by the



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Trial Court on 24.10.2013. Already, the first respondent herein had dealt with the points raised in the written statement through her reply statement. Therefore, again she cannot file a petition to strike out the written statement filed by the petitioners herein. It is nothing but only to drag the proceedings and nothing else.

4. Though, notice was served on the first respondent and name has been printed, no one appeared on behalf of her in person or through pleader.

5. In view of the above, the fair and final order dated 27.08.2015 made in I.A.No.613 of 2014 in O.S.No.76 of 2011 on the file of I Additional District Court, Erode, is hereby set aside. The Trial Court is directed to dispose of the suit, within a period of six months from the date of receipt of a copy of this order.

6. Accordingly, this Civil Revision Petition is allowed.



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Consequently connected miscellaneous petition is closed. No costs.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The I Additional District Court, Erode.

G.K.ILANTHIRAIYAN,J.

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