



CRP No.3029 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM

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

CRP.No.3029 of 2016
and CMP.No.15339 of 2016

C.K.Suganthi @ Mani

..Petitioner

Vs.

1.V.Nachimuthu Gounder

2.Palanisamy Gounder

3.Ponnusamy

..Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and final order dated 06.04.2015 passed in I.A.No.73 of 2014 in O.S.No.406 of 2012 on the file of the District Munsif Court, Tiruppur.

For Petitioner : Mr.H.Manojin

For Respondents

For R1 to 3 : Mr.D.Chitra Maragatham

ORDER

The civil revision petition has been filed as against the fair and final order dated 06.04.2015 passed in I.A.No.73 of 2014 in O.S.No.406 of 2012 on the file of the District Munsif Court, Tiruppur, thereby dismissing the petition filed under Order VII Rule 11 of CPC to reject the plaint.



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2. The petitioner is the defendant in the suit filed by the respondents for fixation of boundaries in respect of the suit property. Pending suit, the petitioner filed an application for rejection of plaint and the same was allowed. Aggrieved by the same, the petitioner filed Second Appeal before this Court in S.A.No.221 of 1992. Pending the Second Appeal, the respondents filed a suit for permanent injunction in respect of the S.F.No.705/2 ad-measuring 11.58 acres and the same was decreed. Aggrieved by the same, the petitioner preferred an appeal in A.S.No.30 of 1991. It was allowed. Aggrieved by the same, the respondents preferred Second Appeal before this Court. Pending the Second Appeal, the respondents filed an application to withdraw the suit with liberty to file a suit for partition, which was also dismissed on 23.07.2002. However, they filed suit for partition and attempted to interfere with the suit schedule property comprised in S.F.No.705/2 ad-measuring an extent of 2.28 ¼ acres. Therefore, the petitioners filed a suit in O.S.No.1084 of 2004 and the respondents filed a suit for partition in O.S.No.233 of 2005. Therefore, there is absolutely no cause of action for the present suit filed by the respondents.

3. On perusal of records revealed that it is not the case of the petitioner that the respondents neither suppressed any fact nor misrepresented before the



CRP No.3029 of 2016

trial Court and filed a suit. The question involved in the suit is mixed question of law and fact and as such, it has to be gone into by way of a full fledged trial. At this stage, it cannot be rejected on the ground of no cause of action. Hence, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

4. Accordingly, the civil revision petition stands dismissed. However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

14.12.2022
(1/2)

Speaking/Non-speaking order
Index : Yes/No
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To

The District Munsif Court,
Tiruppur.



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CRP No.3029 of 2016

G.K.ILANTHIRAIYAN.J.

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CRP.No.3029 of 2016

14.12.2022
(1/2)