



WEB COPY



CRP No.3030 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.3030 of 2016
and CMP.No.15340 of 2016

C.K.Suganthi @ Mani

..Petitioner

Vs.

1.Palanisamy Gounder
2.V.Nachimuthu Gounder
3.Ponnusamy
4.C.N.Ramasamy
5.N.Palanisamy
6.Subbathal
7.Lalitha @ Dhanalakshmi
8.C.K.Ramasamy

..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.119 of 2015 in O.S.No.1084 of 2004 on the file of the District Munsif, Tiruppur.

For Petitioner : Mr.S.Kingston Jerald

For Respondents

For R1 to 8 : Mr.H.Manojin
for Mrs.D.Chitra Maragatham

**ORDER**

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The civil revision petition has been filed as against the fair and final order dated 06.04.2015 passed in I.A.No.119 of 2015 in O.S.No.1084 of 2004 on the file of the District Munsif Court, Tiruppur, thereby dismissing the petition filed for rejection of counter claim claimed by the respondents.

2. The respondents filed a suit for declaration and permanent injunction in respect of the property comprised in S.F.No.705/2 to an extent of 11.58 acres in O.S.No.525 of 1980 and the same was decreed. Aggrieved by the same, the petitioner preferred an appeal before this Court in S.A.No.221 of 1992. Pending the second appeal, the respondents filed an application to withdraw the suit with liberty to file a suit for partition and the suit was dismissed. After 13 years from the date of dismissal of the said suit, the respondents claims the property and as such, the petitioner filed the present suit. In the said suit, the respondents again filed a counter claim only respect of the 2.28 acres in the property. Therefore, the respondents have no cause of action for any counter claim and the petitioner filed a petition for rejection of counter claim filed by the respondents.

3. On perusal of records revealed that the petitioner filed an application for rejection of plaint only on the ground that “no cause of action for the counter



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claim". The plaint averments and the counter claim involved are mixed question of law and fact and as such, it cannot be decided at this stage and the Court below rightly dismissed the application and this Court finds no infirmity or illegality in the orders passed by the Court below.

4. In view of the above, the civil revision petition stands dismissed. However, 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. No costs. Consequently, connected miscellaneous petition is closed.

14.12.2022
(2/2)

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

The District Munsif Court,
Tiruppur.

G.K.ILANTHIRAIYAN.J.

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