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C.R.P(PD) No.1881 of 2022 and

C.M.P.No.9592 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.06.2022

CORAM

THE HONOURABLE MS. JUSTICE **R.N.MANJULA**

C.R.P(PD).No.1881 of 2022 and

C.M.P.No.9592 of 2022

1.T.S.Ayyappan

2.A.Jayanandan

3.A.Gajendiran

4.Soundaravalli

5.S.Sathyabama

6.N.Parameshwari

7.S.Kalyani

8.T.Selvam

... Petitioners

Vs.

1.T.R.S.Jayaprakash

2.S.Prema

3.B.Kabaleeswaran

4.Ponnusamy

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 26.04.2022, passed in I.A.No.3 of 2022 in O.S.No.287 of 2004 on the file of Principal District & Sessions Judge's Court, Vellore, Vellore District.



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C.R.P(PD) No.1881 of 2022 and

C.M.P.No.9592 of 2022

For Petitioners : Mrs.Nalini Chidambaram, Senior Counsel for
Ms.C.Uma

For Respondents : Mr.S.R.Rajagopal for
Ms.Vijayalakshmi Rajagopal

ORDER

This revision petition has been filed to set aside the order dated 26.04.2022, passed in I.A.No.3 of 2022 in O.S.No.287 of 2004, on the file of Principal District & Sessions Judge, Vellore, Vellore District.

2. Heard the learned senior counsel for the petitioners and the learned counsel for the respondents.

3. The revision petitioners are the defendants 2, 5 to 11 who have filed a petition in I.A.No.3 of 2022, to receive certain additional documents and the said petition was dismissed. Aggrieved over that, this civil revision petition has been filed.

4. The learned senior counsel for the petitioners submitted that the petitioners being the parties to the suit, have invoked their statutory right under Order 8 Rule 1(A) of C.P.C. and in the interest of justice, the learned Trial Judge ought to have received the additional documents.



C.R.P(PD) No.1881 of 2022 and

C.M.P.No.9592 of 2022

WEB COPY

5. The learned counsel for the respondents submitted that since there were many interlocutory applications filed by the parties during the pendency of the suit, one such matter went to the Hon'ble Supreme Court and an order has been passed in ***C.A.Nos.4999 to 5001 of 2021 (Parimala Prakasam & Anr Vs. T.S.Ayyappan & Ors)***. In the said order, the Hon'ble Supreme Court has observed as under :

“15. One disturbing feature which emerges from the present facts is that the suit for partition is pending for last 24 years and repeated applications are being preferred by the defendants. The record also shows that the cross-examination of respondent No.1 was in progress when these applications came to be filed one after the other. We may observe that the Trial Court shall do well to conclude the proceedings as early as possible and preferably within six months of the receipt of copy of this order. We may also observe that the Trial Court shall not entertain any such interim applications hereafter.”

The observation of the Hon'ble Supreme Court has been taken as a direction by the learned Trial Judge and the learned Trial Judge having dealt the matter in issue at length and had chosen to dismiss the petition.



C.R.P(PD) No.1881 of 2022 and

C.M.P.No.9592 of 2022

WEB COPY

6. The core contention of the civil revision petitioners is that some of the suit schedule properties are the self acquired properties of the contesting parties and they have a duty to prove before the Court with the aid of documents now sought to be produced that they are the self acquired properties. The learned Trial Judge has passed a detailed order, in which, it is observed that many of the documents in the list for additional documents have already marked and then form part of the record. However, the learned senior counsel for the petitioners submitted that the documents in Serial Nos.4, 12 to 19, 22,23,24,27,28,29 are very much relevant and they cannot be omitted to be marked on the side of the petitioners at the time of trial; and hence, permission should be granted to produce these documents.

7. The learned Trial Judge has made a specific observation with regard to the document No.4 that it does not concern with the suit schedule item. In respect of document Nos.12 to 19, it is seen that the documents were subsequent to the suit and the character of the properties can well be established on the basis of the title deeds of the parties other than the document Nos.12 to 19. With regard to document Nos.22,23,24, they are said to be pattas and kist



C.R.P(PD) No.1881 of 2022 and

C.M.P.No.9592 of 2022

receipts in the name of some of the parties. Despite these pattas are produced, the genuineness of the pattas however needs to be proved by the concerned Revenue Authorities. So, if the petitioner intends, he can file a petition to recall any relevant witness. So far as the document Nos.28,29 are concerned, they are the Aadhaar Cards of Dr.Gajendran and Dr.Kalyani Gajendran and they will not go to help the parties to prove their title. With regard to document in Serial No.27, it is said to be a registration copy of the sale deed executed by the plaintiff in favour of Ponnusamy (D13) who remains exparte. S.No.27 is also not a necessary document to be produced by the other defendants.

8. In view of the specific direction given by the Hon'ble Supreme Court and also in the context of the relevancy of the documents as already discussed, I do not find any factual or legal infirmity in the order passed by the learned Trial Judge. Hence, I find no valid reasons for the interference in the order passed by the learned Trial Judge.

R.N.MANJULA, J.

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9. Accordingly, this civil revision petition stands dismissed and the



C.R.P(PD) No.1881 of 2022 and

C.M.P.No.9592 of 2022

order passed by the learned Principal District & Sessions Judge, Vellore District, in I.A.No.3 of 2022 in O.S.No.287 of 2004 dated 26.04.2022, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

22.06.2022

Index : Yes/No

Speaking or Non-speaking order

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To

The Principal District & Sessions Judge,
Vellore District.

C.R.P(PD) No.1881 of 2022 and

C.M.P.No.9592 of 2022