



C.R.P(PD).No.2969 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P(PD).No.2969 of 2022
and C.M.P.No.16054 of 2022

M.Dharmaraj

...Petitioner

VS

1. Alamelu
2. M.Dhanalakshmi
3. M.Shobanadevi
4. M.Sabapathi
5. Dr.M.Sudhakar
6. M.Kalaiarasi

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 21.11.2019 made in I.A.No.751 of 2018 in O.S.No.392 of 1989 on the file of the Subordinate Court, Dharmapuri.

For Petitioner : Mr.T.Sathiyamoorthy

ORDER

The Civil Revision Petition is filed by the petitioner challenging the docket order dated 21.11.2019 wherein, the Court below had appointed an Advocate Commissioner to suggest the modes of division based on preliminary decree dated 09.01.2009.



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2. The learned counsel for the petitioner submitted that subsequent to the passing of preliminary decree one of the sharer passed away and hence, the shares of the parties mentioned in the preliminary decree have to be modified accordingly. But, the Court below proceeded with the final decree proceedings without modifying the shares of the parties by taking into consideration the subsequent event. It is made clear that it is open to the petitioner to claim share of the second defendant in the suit, by filing an appropriate application before the Court below for modification of shares based on the subsequent event. If any such application is filed by the revision petitioner, the Court below is directed to consider the same on merits and in accordance with law. The order impugned in this revision cannot be interfered with at this stage, when the revision petitioner has got an effective remedy to file an appropriate application before the Court below, as indicated above.

3. With these observations, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.09.2022

Index : Yes / No
Internet : Yes / No
Speaking Order : Yes / No
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S.SOUNTHAR, J.

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To

The Subordinate Court, Dharmapuri.

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