



C.R.P.(NPD)No.1319 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.1319 of 2014
and M.P.No.1 of 2014

1.Shanmugam

2.Parvathiammal

.. Petitioners

Vs.

1.Devi

2.Sundaravalli

3.Vidhya

4.T.Vedagiri

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 19.09.2013 made in I.A.No.614 of 2011 in O.S.No.199 of 1992 on the file of the District Munsif Court, Arakkonam.

For Petitioners : Mr.Ramanan C.A.

for Mr.P.Krishnan



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For R1 and R2 : No appearance
For R3 : No appearance
R4 : died

ORDER

(The matter is heard through “Video-conferencing”)

Civil Revision Petition is filed against the fair and decretal order dated 19.09.2013 made in I.A.No.614 of 2011 in O.S.No.199 of 1992 on the file of the District Munsif Court, Arakkonam.

2.The petitioners are defendants 2 and 3, the respondents 1 to 3 are plaintiffs and 4th respondent is 1st defendant in O.S.No.199 of 1992 on the file of the District Munsif Court, Arakkonam. The said suit was originally filed by one Chokkalingam against the 4th respondent and petitioners herein. The 4th respondent filed written statement on 07.09.1993 and the 2nd petitioner herein filed written statement on 20.01.1995. A preliminary decree was passed on 23.08.2000. The respondents 1 to 3 filed an application for passing final decree in the year



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2006. In the said application, the Advocate Commissioner was appointed to inspect the suit property. At that time, the respondents 1 to 3 filed I.A.No.48 of 2011 to include certain other properties also for partition. The said I.A. was dismissed on 04.07.2011 on the ground that the respondents 1 to 3 have not produced any document to show that those properties belonged to their father Chokkalingam and are liable to be partitioned between the petitioners and respondents. Subsequently, the petitioners filed present application in I.A.No.614 of 2011 in O.S.No.199 of 1992 for inclusion of certain properties.

3. Before the learned Judge, the respondents 1 to 3 endorsed that 'no counter'. The 4th respondent filed counter affidavit and opposed the said application. According to the 4th respondent, the present application filed by the petitioners is belated one and hit by the principles of resjudicata as earlier application I.A.No.48 of 2011 filed by the respondents 1 to 3 was dismissed on 04.07.2011.



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4.The learned Judge considering the averments in the affidavit, counter affidavit filed by the 4th respondent and earlier order dated 04.07.2011 made in I.A.No.48 of 2011, dismissed the present application in I.A.No.614 of 2011.

5.Against the said order of dismissal dated 19.09.2013 made in I.A.No.614 of 2011 in O.S.No.199 of 1992, the petitioners have come out with the present Civil Revision Petition.

6.The learned counsel appearing for the petitioners contended that the matter may be referred to Lok Adalat for amicable settlement to give quietus to the litigation.

7.Though notice has been served on Mr.S.M.Jamaludeen, the learned counsel appearing for the respondents 1 and 2 before the trial Court and his name is printed in the cause list, there is no representation for him, when the matter is taken up for hearing.



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8.Though notice has been served on the 3rd respondent and her name is printed in the cause list, there is no representation for her either in person or through counsel.

9.Heard the learned counsel appearing for the petitioners and perused the entire materials on record.

10.From the materials on record, it is seen that earlier, the respondents 1 to 3 filed suit for partition. The preliminary decree was passed on 23.08.2000. In the year 2006, the respondents 1 to 3 filed application for passing final decree. In the final decree application, the Advocate Commissioner was appointed. At that stage, the respondents 1 to 3 filed I.A.No.48 of 2011 for the very same relief now sought for by the petitioners for inclusion of certain properties. The said application was dismissed on 04.07.2011 on merits. In view of the same, the present application filed by the petitioners is hit by the principles of resjudicata, as in the suit for partition, all the parties ranked as plaintiffs and they can file petition to include all the properties left out in the suit to be included



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for partition. Therefore, the application filed by the respondents 1 to 3 was dismissed and the present application is not maintainable.

11.As far as the contention of the learned counsel appearing for the petitioners that the issue can be referred to Lok Adalat for amicable settlement is concerned, it is open to the petitioners and all the respondents including 4th respondent to make request to the learned Judge to refer the matter to the Lok Adalat for settlement. If the said request is made, the learned Judge is directed to refer the matter before the Lok Adalat for settlement between the parties.

12.With the above directions, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Internet: Yes/No
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V.M.VELUMANI,J.

Kj

To

The District Munsif
Arakkonam.

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