



C.R.P.(PD) No.2751 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM : JUSTICE **N.SESHASAYEE**

C.R.P.(PD) No.2751 of 2021
and C.M.P.No.20065 of 2021

1.P.Srinivasan

2.S.Venkatesan

... Petitioners / Defendants 1 & 2

Vs.

1.D.Chockalingam

2.S.Kalavathy

... Respondents / Plaintiffs

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow the CRP and set aside the docket order dated 04.09.2021 passed in O.S.No.132 of 2010 on the file of Sub Court, Thiruvallur.

For Petitioners : Mr.A.Palaniappan

For Respondents : R.Selvakumar



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ORDER

The revision petitioners are the defendants in O.S.No.132 of 2010 on the file of Sub Court, Thiruvallur. The suit is laid for partition on the strength of a certain settlement deed dated 26.03.1984. Under the settlement deed, the property is stated to have been settled equally in favour of the first plaintiff and the first defendant. The first defendant though a beneficiary under the settlement deed, yet the defendants did not admit the settlement deed in their written statement and contends that the settlor did not have any right to settle the property. It is also pleaded by the defendants that the settlement deed has never come into existence.

2. The trial of the case commenced, during which the plaintiffs wanted to introduce what is styled as consent letter dated 13.06.985. This letter is alleged to have been executed jointly by the first plaintiff and the first defendant in the presence of certain panchayatars. When this document was sought to be introduced in evidence, the defendants appeared to have objected, but the same was rejected by the learned trial Judge vide his docket order dated 04.09.2021. The document however is not yet marked.



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3. The learned counsel for the revision petitioners submitted that in the impugned docket order, the trial Court has indicated that it is rejecting all the objections of the defendants in marking the document. He also added that this document is not pleaded anywhere in the plaint.

4. Without getting into the merit how this document may be of use to the plaintiffs or otherwise, or into its relevancy or admissibility, it has to be held that the trial Court apparently is in error in recording that it has rejected the objections of the defendants in marking the document. The impugned docket order did not spell out on what grounds the objections raised by the defendants, are rejected. Necessarily this Court finds reason to interfere with the said order.

5. Inasmuch as the document is not yet marked, and at the time when the document is introduced in evidence, the defendants will be at liberty to raise such objections as are available to them in law, and the trial Court may either decide it immediately or defer it to be considered at the time of final arguments. Having stated thus, if the trial Court decide on any of the objections which the defendants may raise at the time of marking the



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document to a later period, then it must record the very nature of the objections raised by the defendants.

6. The revision petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

09.03.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

ds

To:

The Sub Judge
Tiruvallur.



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N.SESHASAYEE.J.,

ds

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