



CRP (PD) No. 2984 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No. 2984 of 2021
and
CMP Nos. 21305 & 21306 of 2021

S.Senthil Kumar

... Petitioner/5th Defendant

Vs

1. M.Mohankumar

... 1st Respondent/Plaintiff

2. P.R.Rajan

... 2nd Respondent/1st Defendant

3. D.Saroja

... 3rd Respondent/2nd Defendant

4. R.Vennila

... 4th Respondent/3rd Defendant

5. K.Senthilkumar

... 5th Respondent/4th Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No. 204 of 2020 pending on the file of the learned Additional District and Sessions Judge for FTC-1, Salem.

For Petitioner : Mr. V.Arunagiri



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ORDER

The petitioner seeks rejection of the plaint in O.S.No. 204 of 2020 pending on the file of II Additional District, Judge, Salem.

2. Rejection is sought for mainly on the ground that a partition had taken place on 26.04.1982 between the first defendant and his brother Duraisamy. Admittedly, the plaintiff is not a party to the said partition deed.

3. The plaintiff claims as grandson of one of the joint purchasers, namely Pavayee Ammal and therefore, the property belongs to Hindu Woman and succession would be governed by Section 15 of the Hindu Succession Act.

4. The learned counsel appearing for the petitioner would contend that the Hindu woman was not entitled to share in the property prior to the year 2005. This contention is based on the assumption that the subject matter of the suit is a co-parcenary property or joint family property. That is not the case on facts.



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5. The plaintiff claims under a Hindu Woman, who had purchased the property in her name in the year 1960 and therefore, Section 6 of the Act would not govern the case on hand. In any event, I do not propose to entertain this Civil Revision under Article 227 of the Constitution of India seeking rejection of the plaint, as a remedy is available to the plaintiff before the trial Court under Order 7 Rule 11 of the Code of Civil Procedure.

6. Hence, this Civil Revision Petition fails and it is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.01.2022

vsg

Index: Yes/No

Speaking order / Non speaking order

To:

1. Additional District Sessions Court
FTC-1, Salem.

2. The Section Officer,
VR Section,
Madras High Court, Chennai.

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R.SUBRAMANIAN, J.

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