



C.R.P.No.3160 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3160 of 2022

1.Venkatalakshmi

2.Varalakshmi

3.Sujatha

... Petitioners

VS

1.Lakshmi

2.Muruges

3.Venkatesh

4.Ramappa

5.Jaisankar

6.Venkatraj

7.Thimmarayappa

8.Venkatesappa

9.B.Annaiah

... Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 22.08.2022 passed in Un No.O.S. in SR.No.4367 of 2022 on the file of the learned Principal Subordinate Judge, Hosur and consequently, direct the learned Principal Subordinate Judge, Hosur to number the suit filed by the petitioners in Un No O.S. in SR. No.4367 of 2022.

For Petitioners : Mr.T.Ananthasekar

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below rejecting an unnumbered plaint.

2. The petitioners herein claiming themselves as daughters of one late Muniyappa filed a suit for partition against the respondent in O.S.SR.No.4367 of 2022. Even as per the plaint averments, the suit properties were sold to the third parties by the father of the plaintiffs and his siblings by way of two sale deeds dated 29.01.1986 and 05.03.1986. Therefore, as per the averments found in the plaint, there was no coparcenary property available with their family on the date of presentation of the suit in February-2022. The petitioners herein



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also sought for a declaration that the sale deeds executed by their father and others dated 29.01.1986 and 05.03.1986 were not valid. The petitioners are not entitled to maintain such a prayer after 34 years.

3. The learned counsel for the petitioners by relying on the judgement reported in ***CDJ 2020 SC 658 (Vineeta Sharma vs. Rakesh Sharma)***, submitted that the petitioners herein acquired birth right by virtue of amendment to Hindu Succession Act, 1956 in the year 2005.

4. The submission made by the learned counsel for the petitioners cannot be accepted for the reason that as per the averment found in the plaint, on the date of presentation of the suit, no property was available with the family of the petitioners. The suit properties were admittedly sold by father of the petitioners and his siblings in the year 1986 itself. Hence, even on the date of coming into force of 2005 amendment to Hindu Succession Act, 1956 there was no coparcenary property available in the family. The properties were sold by registered document even in the year 1986, when petitioners had no birth right over said properties. Therefore, the petitioners are not entitled to seek partition



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by taking shelter the amendment made to Hindu Succession Act, 1956 in the year 2005. I do not find any illegality or irregularity in the order passed by the Court below.

5. Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
dm



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To

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The Principal Subordinate Judge,
Hosur.



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S.SOUNTHAR, J.

dm

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